

Jharkhand State Electricity Regulatory Commission



Order on
Category-wise Retail Supply Tariff from
FY 2006-07 to FY 2011-12
for
Damodar Valley Corporation (DVC)
OCTOBER 31, 2023



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List of Abbreviations

Abbreviation	Description
A&G	Administrative and General
ARR	Aggregate Revenue Requirement
CEA	Central Electricity Authority
COD	Commercial Operation Date
CFBC	Circulating Fluidized Bed Combustion
CCL	Central Coalfield Limited
CIL	Coal India Limited
ECR	Energy Charge Rate
FY	Financial Year
GCV	Gross Calorific Value
GFA	Gross Fixed Assets
GHR	Gross Station Heat Rate
GoI	Government of India
GoJ	Government of Jharkhand
IoWC	Interest on Working Capital
IPL	Inland Power Limited
JBVNL	Jharkhand Bijli Vitran Nigam Limited
JSEB	Jharkhand State Electricity Board
JSERC	Jharkhand State Electricity Regulatory Commission
JUVNL	Jharkhand Urja Vikas Nigam Limited
kCal	Kilocalorie
kg	Kilogram
kWh	Kilowatt-hour
MAT	Minimum Alternative Tax
ML	Millilitre
MOU	Memorandum of Understanding
MT	Metric Tonnes
MU	Million Units
MW	Megawatt
MYT	Multi-Year Tariff
NAPAF	Normative Annual Plant Availability Factor
O&M	Operations and Maintenance
PAF	Plant Availability Factor
PLF	Plant Load Factor
PPA	Power Purchase Agreement
R&M	Repair and Maintenance
RoE	Return on Equity
Rs.	Rupees
SBI	State Bank of India
SERC	State Electricity Regulatory Commission
SLDC	State Load Dispatch Centre
SLM	Straight Line Method



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**Before
Jharkhand State Electricity Regulatory Commission, Ranchi**

Case (Tariff) No.: 09 of 2020

In the matter of:

**Petition for
Determination of ARR and Category-wise Tariff for the period FY 2006-
07 to FY 2011-12 and Adjustment of Revenue Gap/Surplus for the
period FY 2012-13 to FY 2014-15**

In the matter:

Damodar Valley Corporation (DVC)**Petitioner**

PRESENT

Hon'ble Justice Amitav Kumar Gupta

Chairperson

Hon'ble Mahendra Prasad

Member (Legal)

Hon'ble Atul Kumar

Member (Technical)

Order dated October 31, 2023

Damodar Valley Corporation (hereinafter referred to as 'DVC' or the 'Petitioner') filed a Petition dated December 03, 2020 for the approval of ARR and category-wise Tariff for the period FY 2006-07 to FY 2011-12 and adjustment of Revenue Gap/Surplus for the period FY 2012-13 to FY 2014-15 for the distribution of electricity in its licensed area of the State of Jharkhand.



Chapter 1: Introduction

Jharkhand State Electricity Regulatory Commission

1.1 The Jharkhand State Electricity Regulatory Commission (hereinafter referred to as “JSERC” or “the Commission”) was established by the Government of Jharkhand under Section 17 of the Electricity Regulatory Commission Act, 1998 on August 22, 2002. The Commission became operational with effect from April 24, 2003.

1.2 The Government of Jharkhand vide notification dated August 22, 2002 had defined the functions of JSERC as per Section 22 of the Electricity Regulatory Commission Act, 1998, namely: -

- a) to determine the tariff for electricity, wholesale, bulk, grid or retail, as the case maybe, in the manner provided in Section 29;
- b) to determine the tariff payable for the use of the transmission facilities in the manner provided in Section 29;
- c) to regulate power purchase and procurement process of the transmission utilities and distribution utilities including the price at which the power shall be procured from the generating companies, generating stations or from other sources for transmission, sale, distribution and supply in the State;
- d) to promote competition, efficiency and economy in the activities of the electricity industry to achieve the objects and purposes of this Act.

1.3 After the Electricity Act, 2003 came into force, the earlier Electricity Regulatory Commission Act of 1998 stood repealed and the JSERC is discharging its functions as prescribed under Section 86 of the Act.

1.4 In accordance with provisions of the Act, the JSERC discharges the following functions: -

- a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:
Provided that where open access has been permitted to a category of consumers under Section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;
- b) regulate electricity purchase and procurement process of distribution



licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

- c) facilitate intra-state transmission and wheeling of electricity;
- d) issue licenses to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;
- e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;
- f) adjudicate upon the disputes between the licensees and generating companies; and to refer any dispute for arbitration;
- g) levy fee for the purposes of this Act;
- h) specify State Grid Code consistent with the Grid Code specified under Clause (h) of sub-section (1) of Section 79;
- i) specify or enforce standards with respect to quality, continuity and reliability of service by licensees;
- j) fix the trading margin in the intra-state trading of electricity, if considered, necessary;
- k) discharge such other functions as may be assigned to it under this Act.

1.5 The Commission advises the State Government on all or any of the following matters, namely: -

- a) promotion of competition, efficiency and economy in activities of the electricity industry;
- b) promotion of investment in electricity industry;
- c) reorganisation and restructuring of electricity industry in the State;
- d) matters concerning generation, transmission, distribution and trading of electricity or any other matter referred to the State Commission by that Government.

1.6 The State Commission ensures transparency while exercising its powers and discharging its functions.

1.7 In discharge of its functions, the State Commission is guided by the National



Tariff Policy framed and published by Government of India under the provisions of Section 3 of the Act. The objectives of the present National Tariff Policy are to: -

- a) ensure availability of electricity to consumers at reasonable and competitive rates;
- b) ensure financial viability of the sector and attract investments;
- c) promote transparency, consistency and predictability in regulatory approaches across jurisdictions and minimize perceptions of regulatory risks;
- d) promote competition, efficiency in operations and improvement in quality of supply.

The Petitioner - Damodar Valley Corporation (DVC)

1.8 Damodar Valley Corporation (hereinafter referred to as DVC or the Petitioner), is a statutory body incorporated under the Damodar Valley Corporation Act, 1948, having multifarious functions. DVC undertakes generation of electricity and is therefore a generating company within the meaning of Section 2 (28) of the Electricity Act, 2003. DVC also undertakes transmission of electricity in the Damodar valley area which falls within the territorial limits of the two states namely, West Bengal and Jharkhand. It, therefore, undertakes inter-state transmission of electricity and operates inter-state transmission system within the meaning of Section 2 (36) of the Electricity Act, 2003. DVC also undertakes the sale of electricity to West Bengal State Electricity Distribution Company Limited (WBSEDCL) and Jharkhand Bijli Vitran Nigam Limited (JBVNL) in its capacity of a generating company. This is bulk sale of electricity by a generating company to a distribution licensee within the meaning of Section 62 (1) (a) of the Electricity Act, 2003. In addition to the above, DVC undertakes the retail sale and supply of electricity to the consumers in the Damodar Valley area under the provisions of Section 62 (d) read with Section 86 (1) of the Electricity Act, 2003.

1.9 DVC, being a statutory body constituted under the DVC Act, 1948, is a Public Sector Undertaking (PSU). As envisaged under Section 79 (1) (a) of the Electricity Act, 2003, the tariff for generation of electricity is to be decided by the Central Electricity Regulatory Commission (CERC). Similarly, with regards to the inter-state transmission, DVC again is regulated by CERC and tariff for composite (inter-state) generation & transmission is to be determined by the



CERC in terms of Section 79 (1) (c) and (d) of the Electricity Act, 2003.

- 1.10 With regards to the retail sale and supply of electricity, DVC 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 (d) read with Section 86 (1) of the Electricity Act, 2003 and has to be determined by the respective State Electricity Regulatory Commissions of West Bengal and Jharkhand. The Petitioner is a Distribution Licensee under the provisions of the Electricity Act, 2003 (EA, 2003) having licence to supply electricity in the State of Jharkhand.

The Petitioner's Prayers

- 1.11 In these Petitions the Petitioner has made the following prayers: -
- a) Admit the present petition and determine the tariff based on the submissions made in the instant tariff petition for the period from FY 2006-07 to FY 2011-12 and pass such directions for recovery / refund of the differential amounts as proposed in the petitions.
 - b) Revise the revenue gap (+) / surplus (-) for the period from FY 2012-13 to FY 2014-15 after deducting the quantum proportionate to the sales ratio of JBVNL, for prospective settlement along with applicable carrying cost.
 - c) In case this Hon'ble Commission decides to finalize the ARR and Tariff for the consumers and licensees in Jharkhand by adopting any methodology other than that proposed herein, then DVC be given an opportunity by this Hon'ble Commission to present its comments / views on the said methodology.
 - d) Consider the submissions without prejudice to the rights and contentions of DVC in the Appeal Nos. 163 of 2017 and 281 of 2018 filed before the Hon'ble Appellate Tribunal for Electricity.
 - e) Settle other commercial issues based on the submissions made herein by DVC.
 - f) Pass such order(s) as this Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.



Chapter 2: Procedural History

Background

- (a) The Commission on May 28, 2019 had issued Order on True-up for FY 2016-17, Annual Performance Review for FY 2017-18 & FY 2018-19 and determination of ARR & Tariff for FY 2019-20.
- (b) The Commission on September 29, 2020 had also issued Order on True-up for FY 2017-18.
- (c) The Commission on September 30, 2020 while disposing the Petition No. 01 of 2020 & 02 of 2020 approved the True up for FY 2018-19, Annual Performance Review for FY 2019-20 and ARR & Tariff for FY 2020-21.
- (d) The Commission vide Order dated January 30, 2023 approved the True-up for FY 2019-20 and Annual Performance Review for FY 2020-21.
- (e) Further, the Commission vide Order dated January 30, 2023 has approved the Petition for MYT for the Control Period from FY 2021-22 to FY 2025-26 and Tariff determination for FY 2021-22.
- (f) The instant Petition, dated December 03, 2020 has been filed by the Petitioner for Determination of ARR and Category-wise Tariff for the period FY 2006-07 to FY 2011-12 and Adjustment of Revenue Gap/Surplus for the period FY 2012-13 to FY 2014-15.

Case History

- 2.1 Central Electricity Regulatory Commission (CERC) by Order dated October 03, 2006 decided the tariff for DVC with respect to inter-state generation and transmission of electricity and directed that the tariff so determined would be effective for the period April 01, 2006 to March 31, 2009.
- 2.2 On being, aggrieved by the aforesaid order passed by Hon'ble CERC, DVC had filed an appeal before the Hon'ble APTEL and Hon'ble APTEL, in the appeal filed by DVC passed interim orders dated December 6, 2006, January 15, 2007 and February 26, 2007, restraining the State Commissions of West Bengal and Jharkhand from passing orders for determination of distribution and retail tariffs for DVC till the passing of final judgment by Hon'ble APTEL. Hon'ble APTEL, by Judgment and Order dated November 23, 2007, allowed the appeal filed by DVC and directed CERC to determine the revenue requirements and inter-state generation and transmission tariff for DVC for the period FY 2006-



07 to FY 2008-09, *de-novo*, as per the terms laid down in its Order. Thereafter, the CERC by its Order dated August 6, 2009 revised the ARR and tariff for inter-state generation and transmission of electricity for the period FY 2006-07 to FY 2008-09.

- 2.3 DVC being aggrieved with the Order passed by the CERC again preferred an appeal before Hon'ble APTEL which by Interim Order dated September 16, 2009 allowed WBERC and JSERC to fix the retail supply tariff for FY 2010-11 after considering the generation tariff as fixed by CERC in its Order dated August 6, 2009 as the input cost, but directed the SERCs to not pass any final orders in this regard. Consequently, DVC filed the Petition for determination of ARR and retail tariffs for the period FY 2006-07 to FY 2010-11 to the Commission on October 31, 2009. Since the matter was subjudice before the Hon'ble APTEL and there was a direction for not passing any final retail tariff Order, the Commission kept the Petition pending awaiting final order of the Hon'ble APTEL.
- 2.4 The Hon'ble APTEL, vide its Order dated May 10, 2010, directed DVC to implement the generation tariff as determined by the CERC in its Order dated August 6, 2009 and to give effect to any refund to its consumers arising out of implementation of the said Order. The relevant extract of the said Order is reproduced below:

*“107. Since we do not find any substance in the grounds raised in the Appeal, we deem it fit to dismiss the Appeal as devoid of merits. Consequently, **we direct the Appellant (DVC) to implement the Tariff as determined by the Central Commission vide its Order dated, 6th August, 2009.** DVC is also directed to revise the electricity bills raised by it for electricity consumption during April, 2006 onwards of its licensees and HT consumers and **refund the excess amount billed and collected along with the interest at the rate of 6 per cent per annum in line with Section 62 (6) of The Electricity Act, 2003...**” (Emphasis added)*

- 2.5 Hon'ble APTEL, by its Order dated May 10, 2010, further directed the Petitioner to approach the concerned SERCs for finalizing the retail tariffs, the relevant extract is being reproduced below:

“107. Thereafter, the DVC is directed to approach the concerned State Electricity Commissions for getting the final Order relating to the Retail Tariff



who in turn will fix the retail Tariff according to law.”

- 2.6 Aggrieved by the said Order of the Hon’ble APTEL, DVC filed an appeal before the Hon’ble Supreme Court of India, being No. C.A. No. 4881/ 2010. The Hon’ble Supreme Court in its Order dated July 9, 2010, stayed refund. The relevant part of the said Order is reproduced below:

*“In the meantime, parties will submit before us the various disputed items to be taken into account in Tariff Fixation as well as the relevant documents on which Damodar Valley Corporation would be relying upon at the final hearing...**Until further orders, there shall be stay on refund.”**
(Emphasis added)*

- 2.7 From the said Order, it is clear that the entire Order of the Hon’ble APTEL has not been stayed by the Hon’ble Supreme Court and the stay is related only to refund.
- 2.8 The Commission, in line with the Judgment dated May 10, 2010 of the Hon’ble APTEL in its aforementioned Order, initiated the process of review of the Tariff Petitions submitted by the Petitioner and issued the provisional Order on ARR for FY 2006-07 to FY 2012-13 on November 22, 2012.
- 2.9 The Petitioner subsequently submitted the final True-up Petition for FY 2006-07 to FY 2012-13 along with the MYT Petition for the Control Period from FY 2013-14 to FY 2015- 16 on February 28, 2014. The Commission while issuing the MYT Order for the Control Period FY 2013-14 to FY 2015-16 on September 04, 2014 did not undertake the final Trueup for FY 2006-07 to FY 2012-13 as the matter was subjudice. The Commission, in the said Order, observed as follows:

“5.7 In the Tariff Order dated 22nd November 2012, the Commission had approved a cumulative revenue surplus of Rs.424.38 Cr for the period FY 2006-07 to FY 2008-09. However, as the true up for the above-mentioned years was provisional subject to the final decision of the Hon’ble Supreme Court in its appeal C.A. No. 4881/2010, the Commission had not allowed any pass through of this surplus along with the revenue gap approved for FY 2010-11 and FY 2011-12 to be adjusted once the final decision is made in this regard.

5.8 In view of above, the Commission is of the opinion that as the True up for period FY 2006-07 to FY 2008-09 is still subject to final judgement of the



Hon'ble Supreme Court with respect to the appeal No. C.A. No. 4881/2010 filed by DVC against the Order of ATE dated 10th May 2010; the Commission has not made any adjustment in revenue surplus approved for this period. This would be a pass through once the final judgement is issued in this matter.

5.9 With respect to True up for FY 2009-10 to FY 2012-13 in accordance with the Final Tariff orders issued by CERC, the Commission is of the view that detailed analysis should be carried out to assess the impact of the orders. In this regard, several consumers have represented in front of the Commission for approval of compensation as per the CERC regulations due to them for refund of excess capacity charges recovered by DVC. M/s Bihar Foundry & Castings Ltd being a HT consumer within the command area of DVC has preferred an appeal before the Hon'ble Supreme Court vide appeal No. SLP (Civil) No 10945 of 2012 for refund of excess of capacity charges realised by DVC.

....

5.14 In view of above, the Commission is of the opinion that final true up for the period FY 2009-10 to FY 2012-13 shall be undertaken on finalisation of compensation as per the CGRF and final judgement of Supreme Court in appeal no. SLP (Civil) No 10945 of 2012 for refund of excess of capacity charges realised by DVC.

5.15 Accordingly, the Commission has not considered any true up for previous years revenue gap/surplus in this order.”

- 2.10 One of the HT consumer of DVC, Anjaney Ferro Alloys, filed an Appeal before the Hon'ble APTEL, against the Commission's Order dated September 04, 2014 submitting that the Commission ought to have undertaken final True-up of the ARR for FY 2006- 07 to FY 2012-13. The Hon'ble APTEL, agreeing with the view of the Commission that the matter of True-up was subjudice, upheld the Order of the Commission. Anjaney Ferro Alloys preferred an appeal before the Hon'ble Supreme Court of India (CA No. 7383/2016) against the Order dated March 23, 2016 passed by the Hon'ble APTEL.
- 2.11 The Hon'ble Supreme Court of India, vide its Judgment dated October 26, 2016, directed the Commission to take-up the issue of True-up of previous years and make the decision subject to the result of Civil Appeal No. 4881 of 2010. It reads as:



“.. Therefore, this appeal is disposed of with a direction to Respondent No.1- Jharkhand State Electricity Regulatory Commission to take up the true-up issue and pass the required Orders within a period of six months from today.

However, the Commission is free to make the decision subject to the result of Civil Appeal No. 4881 of 2010 in case the said civil appeal is not disposed of before the said period.”

2.12 In accordance with the above, the Commission issued an Order on True-up from FY 2006- 07 to FY 2013-14 and Annual Performance Review for FY 2014-15 on April 19, 2017 and the Order on True-up for FY 2015-16 and ARR for FY 2016-17 to FY 2020-21 on May 18, 2018.

2.13 The Commission in its MYT Order dated May 18, 2018 has not considered the surplus till FY 2014-15 to be passed on to the consumers considering the following Judgment in Order dated 19.01.2018 in Case No 07 of 2017:

“In view of the said admitted position and the facts and circumstances appearing on record, we are of the view that during the pendency of Appeal No. 198 of 2017 filed by the petitioner in this case and Appeal No. 163 of 2017 filed by the respondent, DVC, before the Hon’ble Appellate Tribunal for Electricity, the order dated 19.4.2017 passed in Case (T) No. 02 of 2016 cannot be said to have attained its finality and it would not be proper to pass any order in the instant case for refund of excess charges claimed by the petitioners at this stage.”

2.14 The Hon’ble Supreme Court in its Judgment in Civil Appeal No. 4881 of 2010 dated December 3, 2018 dismissed the appeal as:

*“... The upshot of the above discussion is that the appellant has not made out a case for interference. **The appeal fails and is dismissed.** The parties will bear their respective costs.” **(Emphasis Added)***

2.15 The Commission in its Order dated May 28, 2019 also directed the Petitioner as below:

“... 8.10 In addition, since the Appeal I.A. no. 1188 of 2018 & DFR No. 2430 of 2018, filed on the Order of the Commission dated May 18, 2018 is sub-judice, the Commission has not proposed any recovery for the past gaps.

8.11 The Commission however notes that the said surplus shall increase as



carrying cost is to be allowed on the amount not adjusted/refunded. It would be very difficult to refund/adjust the previous years' surplus if it is not gradually reduced.

8.12 The Commission therefore, directs the Petitioner to propose a roadmap for adjustment of the abovementioned surplus clearly stating the period of treatment and the manner in which it proposes to do within two months of issue of this Order.”

- 2.16 The Petitioner has submitted the instant petition for determination of ARR and category wise tariff schedule for the period from FY 2006-07 to FY 2011-12 and adjustment of Revenue Gap/(Surplus) till FY 2014-15 for distribution activity of DVC in the State of Jharkhand.

Information Gaps in the Petition

- 2.17 As part of tariff determination exercise, several deficiencies/information gaps were observed in the Petition submitted, which were communicated to the Petitioner vide letter no. JSERC/Case (Tariff) no.: 09 of 2020/37 dated April 20, 2023, and JSERC/Case (Tariff) no.: 09 of 2020/222 dated July 18, 2023.
- 2.18 The Petitioner submitted its response to the aforesaid letter and furnished additional data/information vide letter no. Coml./Tariff/JSERC/877 dated April 25, 2023 and letter no. Coml./Tariff/JSERC/231 dated August 25, 2023.
- 2.19 The Commission has scrutinized the additional data/information submitted by the Petitioner in response to the discrepancies pointed out and has considered the same while passing this Order.
- 2.20 In order to provide adequate opportunity to all stakeholders and general public as mandated under Section 64 (3) of the Electricity Act, 2003 and in relevant provisions of Regulation(s) framed by the Commission and further in order to ensure transparency in the process of tariff determination, the Commission decided to conduct public hearings on July 19, 2023 at Hazaribag and on July 21, 2023 at Dhanbad for inviting comments/suggestion/objection.

Inviting Public Comments/ Suggestions

- 2.21 After the initial scrutiny of Petition filed by the Petitioner, the Commission directed the Petitioner to issue a public notice inviting comments/ suggestions

on the Petition from public and to make available copies of the Petition to the members of general public on request.

- 2.22 The aforesaid public notice was subsequently issued by the Petitioner in various newspapers and a period of twenty-one (21) days were given to the members of the general public for submitting their comments/suggestions.

TABLE 1: LIST OF NEWSPAPERS AND DATES OF PUBLICATION OF PUBLIC NOTICE BY THE PETITIONER

Sl. No.	Newspaper	Version	Date of Publication
1.	Prabhat Khabar - Ranchi, Dhanbad, Jamshedpur, Deoghar	Hindi	16.12.2020
2.	Dainik Bhaskar - Ranchi, Dhanbad, & Jamshedpur	Hindi	16.12.2020
3.	Morning India - Ranchi	English	16.12.2020
4.	Times of India - Ranchi	English	16.12.2020

- 2.23 Subsequently, the Commission also issued a notice on its website www.jserc.org and in various newspapers for conducting the public hearing on the Petition filed by the Petitioner. The newspapers wherein the notice for public hearing was issued by the Commission are detailed hereunder:

TABLE 2: LIST OF NEWSPAPERS AND DATES OF PUBLICATION OF PUBLIC NOTICE BY THE COMMISSION

Sl. No.	Newspaper	Date of Publication
1.	Prabhat Khabar	25.07.2023 & 27.07.2023
2.	Dainik Bhaskar	25.07.2023 & 27.07.2023
3.	Morning India	25.07.2023 & 27.07.2023
4.	Times of India	25.07.2023 & 27.07.2023

Submission of Comments/ Suggestions and Conduct of Public Hearing

- 2.24 The public hearing was held on July 19, 2023 at Hazaribag and on July 21, 2023 at Dhanbad for inviting comments/suggestion/objection.
- 2.25 Comments/Suggestions on the Petition were received. The Comments/Suggestions of the Public, Petitioner's responses and Commission's views thereon are detailed in **Chapter 4** of this Order.



Chapter 3: Brief Facts of the Petition

Aggregate Revenue Requirement

3.1 The summary of ARR as claimed by the Petitioner is tabulated below:

**TABLE 3: AGGREGATE REVENUE REQUIREMENT AS SUBMITTED BY THE
PETITIONER (RS. CR.)**

Particulars	UoM	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	
Own Generation Cost	Rs. Cr.	2,523.16	2,466.62	2,601.92	3,786.35	4,189.29	5,332.87	
Power purchase cost	Rs. Cr.	35.42	84.92	82.10	753.11	600.04	555.00	
T&D Cost	Rs. Cr.	164.32	173.19	173.73	Included in own generation cost			
Pension as allowed by CERC	Rs. Cr.	628.19	628.19	628.19				
Sinking fund contribution as allowed by CERC	Rs. Cr.	40.43	30.72	27.55				
Pension for distribution activity	Rs. Cr.	1.23	1.23	1.23	0.49	0.49	0.49	
Others Costs (incl. Of Tariff filing & Pub. Exp.)	Rs. Cr.	0.25	0.25	0.33	1.12	1.17	1.38	
Income Tax	Rs. Cr.	243.52	122.87	94.35	-	-	-	
Water and Pollution Cess	Rs. Cr.	2.76	2.27	1.84	2.79	2.75	2.06	
Rebate on Sale of Power	Rs. Cr.	14.31	12.80	11.37	5.12	3.05	11.67	
Interest on Temp Financial accommodation	Rs. Cr.	-	-	-	-	54.38	125.23	
Legal Expenses	Rs. Cr.	0.02	1.01	1.48	1.52	1.60	2.03	
Total Cost	Rs. Cr.	3,653.61	3,524.08	3,624.08	4,550.51	4,852.77	6,030.73	
Less: Non-Tariff income	Rs. Cr.	7.65	12.22	24.26	1.89	7.63	28.54	
Net Cost	Rs. Cr.	3,645.96	3,511.86	3,599.82	4,548.62	4,845.14	6,002.19	
Ratio of sales in Jharkhand area to total DVC area	Rs. Cr.	62.77%	59.71%	60.00%	58.35%	59.47%	58.86%	
Allocation of cost to Jharkhand area in ratio of energy sales in Jharkhand area	Rs. Cr.	2,288.43	2,097.03	2,159.94	2,653.93	2,881.24	3,533.13	
Add: Tariff filing & Publication Expense JSERC	Rs. Cr.	0.24	0.23	0.27	0.63	0.66	0.34	
Add: Interest on working capital	Rs. Cr.	2.15	2.76	3.35	3.67	3.38	4.44	
Add: Interest on security deposit	Rs. Cr.	-	-	-	-	-	1.02	
Total ARR for Jharkhand area	Rs. Cr.	2,290.82	2,100.02	2,163.56	2,658.23	2,885.28	3,538.93	
Energy sold to consumers in Jharkhand	MU	6,761.61	7,394.85	7,740.31	8,094.00	8,549.41	8,899.12	
Energy Sold to HV & EHV Consumers & licensees excluding JBVNL	MU	4,032.52	4,379.53	4,659.63	4,908.43	5,244.73	5,438.63	
ARR recoverable from HV & EHV Consumers & licensees excluding JBVNL	Rs. Cr.	1,446.63	1,270.16	1,313.52	1,688.54	1,949.64	2,146.92	
Average cost of supply for HV & EHV consumers & licensees excluding JBVNL	Rs./kWh	3.59	2.90	2.82	3.44	3.72	3.95	

Particulars	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
ARR allocated in the State of Jharkhand	2,290.82	2,100.02	2,163.56	2,658.23	2,885.28	3,538.93

Particulars	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Revenue Billed in Jharkhand for firm sale:						
a) Revenue Billed to JBVNL (based on actual billing during the respective year)	831.81	816.21	837.96	958.53	922.45	1,376.94
b) Revenue Billed to other consumers in Jharkhand other than JBVNL (based on actual billing during the respective year)	1,265.95	1,439.88	1,899.45	2,036.52	1,956.25	2,035.44
Total Revenue Billed in Jharkhand (=3+4)	2,097.76	2,256.09	2,737.41	2,995.05	2,878.70	3,412.38

Particulars	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Energy sold to firm consumers in Jharkhand (MU)	6,761.61	7,394.85	7,740.31	8,094.00	8,549.41	8,899.12
Energy sold to firm consumers in West Bengal(MU)	4,011.08	4,989.16	5,159.90	5,778.43	5,827.43	6,218.97
Total Energy Sale (MU)=(1+2)	10,772.69	12,384.02	12,900.21	13,872.43	14,376.85	15,118.09
Sales Ratio for West Bengal (=2/3)%	37.23%	40.29%	40.00%	41.65%	40.53%	41.14%
Sales Ratio for Jharkhand (=1/3)%	62.77%	59.71%	60.00%	58.35%	59.47%	58.86%

Category-wise Retail Supply Tariff

3.2 Category-wise Tariff for the period FY 2006-07 to FY 2011-12 as claimed by the Petitioner is tabulated below:

TABLE 4: CATEGORY-WISE TARIFF FOR FY 2006-07 AS SUBMITTED BY THE PETITIONER

Particulars	Existing Tariff (FY 2006-07)		Proposed Tariff (FY 2006-07)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33KV)	2.37	365.00	2.78	365.00
Industries (132KV)	2.27	365.00	2.78	365.00
Traction (132KV)	2.43	365.00	2.78	365.00

TABLE 5: CATEGORY-WISE TARIFF FOR FY 2007-08 AS SUBMITTED BY THE PETITIONER

Particulars	Existing Tariff (FY 2007-08)		Proposed Tariff (FY 2007-08)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33KV)	2.41	365.00	2.09	365.00
Industries (132KV)	2.34	365.00	2.09	365.00
Traction (132KV)	2.45	365.00	2.09	365.00

**TABLE 6: CATEGORY-WISE TARIFF FOR FY 2008-09 AS SUBMITTED BY THE
PETITIONER**

Particulars	Existing Tariff (FY 2008-09)		Proposed Tariff (FY 2008-09)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33KV)	2.43	365.00	2.01	365.00
Industries (132KV)	2.35	365.00	2.01	365.00
Traction (132KV)	2.45	365.00	2.01	365.00

**TABLE 7: CATEGORY-WISE TARIFF FOR FY 2009-10 AS SUBMITTED BY THE
PETITIONER**

Particulars	Existing Tariff (FY 2009-10)		Proposed Tariff (FY 2009-10)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33KV)	2.98	365.00	2.66	365.00
Industries (132KV)	2.90	365.00	2.66	365.00
Traction (132KV)	2.96	365.00	2.66	365.00

**TABLE 8: CATEGORY-WISE TARIFF FOR FY 2010-11 AS SUBMITTED BY THE
PETITIONER**

Particulars	Existing Tariff (FY 2010-11)		Proposed Tariff (FY 2010-11)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs./kWh)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33KV)	1.96	1.05	3.03	365.00
Industries (132KV)	1.95	1.05	3.03	365.00
Traction (132KV)	1.96	1.11	3.03	365.00

**TABLE 9: CATEGORY-WISE TARIFF FOR FY 2011-12 AS SUBMITTED BY THE
PETITIONER**

Particulars	Existing Tariff (FY 2011-12)		Proposed Tariff (FY 2011-12)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs./kWh)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33KV)	2.11	1.57	3.16	365.00
Industries (132KV)	2.12	1.57	3.16	365.00
Traction (132KV)	2.10	1.61	3.16	365.00
Industries (220KV)	2.22	1.71	3.16	365.00



Chapter 4: Public Consultation Process

- 4.1 The Petition filed by the Petitioner evoked responses from several Stakeholders. The public hearings were held on July 19, 2023 at Hazaribag and on July 21, 2023 at Dhanbad to ensure maximum Public participation and transparency wherein Stakeholders put forth their comments and suggestions before the Commission in the presence of the Petitioner. The list of the attendees is attached as **Annexure-I** to this Order.
- 4.2 The Comments/Suggestion of the members of the Public along with the response thereon of the Petitioner and the views of the Commission are detailed hereunder:

Water & Pollution Cess

Public Comments/Suggestions

Association of DVC HT Consumers of Jharkhand

- 4.3 The Petitioner has claimed amounts towards Water & Pollution Cess to the tune of Rs. 2.76 Crores, Rs. 2.27 Crores, Rs. 1.84 Crores, Rs. 2.79 Crores, Rs. 2.75 Crores and Rs. 2.06 Crores for the years FY 2006-07, FY 2007-08, FY 2008-09, FY 2009-10, FY 2010-11 and FY 2011-12 respectively.
- 4.4 It is respectfully submitted that neither the JSERC Tariff Regulations 2005, nor the JSERC Tariff Regulations 2007 nor the JSERC Tariff Regulations 2010 have an enabling provision permitting the Distribution Licensees to claim Water & Pollution Cess as part of their ARR.
- 4.5 It is however observed that the Hon'ble JSERC in its wisdom, had allowed Water & Pollution Cess to the tune of Rs. 2.79 Crores, Rs. 2.75 Crores and Rs. 2.06 Crores only for the years FY 2009-10, FY 2010-11 and FY 2011-12 respectively vide its Order dated 18.05.2018.
- 4.6 Further, it is observed that the WBERC has not allowed any amounts towards Water & Pollution Cess for DVC (West Bengal) in its Orders dated 19.06.2020 and 19.03.2020 respectively for the years FY 2006-07, FY 2007-08, FY 2008-09, FY 2009-10, FY 2010-11 and FY 2011-12 respectively. The Objector thereby seeks parity from the Hon'ble Commission.
- 4.7 In light of the same, it is prayed that the Hon'ble Commission may allow Water & Pollution Cess to the extent it had approved in its Order dated 18.05.2018.



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- 4.8 At the outset, it is submitted that the Petitioner has not claimed water and pollution cess for the period of FY 2006-07 to FY 2008-09 at the time of final True-Up of ARR from FY 2006-07 to FY 2013-14 before this Hon'ble Commission. However, in the instant petition it has claimed water and pollution cess for FY 2006-07 to FY 2008-09.
- 4.9 It is also pointed out that there are no such regulatory provisions in the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Distribution Tariff) Regulations, 2004, Jharkhand State Electricity Regulatory Commission (Terms and Conditions of Tariff Determination, Multi-Year Tariff Framework) Regulation, 2007 and the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2010 which provides framework for claiming water and pollution cess. Hence, the Objector requests Hon'ble Commission to disallow the claim made by the Petitioner towards water and pollution cess for the period FY 2006-07 to FY 2011-12 in the instant petition.

Petitioner Response

- 4.10 It is an already established fact that expenditure in respect of water and pollution cess is a legitimate claim of the utility. Such expenditures are directly related to generation of electricity and are not included in the CERC tariff. Hon'ble JSERC vide Tariff Order dated. 04.09.2014 (Table 51, 52 & 53 of Pages 71 & 72) has already acknowledged the fact that Water and Pollution cess is a pass-through element in the distribution tariff. Hence this Hon'ble Commission in a consistent approach has allowed the expenditure in respect of water and pollution cess as an item of ARR for FY 2009-10 to FY 2014-15 vide Tariff Order dated. 18.05.2018 (Table 7 of Page 27) and vide tariff order dated 28.05.2019 (Table 22 of Page 65), 29.09.2020 (Table 18 of Page 48) and 30.09.2020 (Table 19 of Page 68) for the years 2016-17, 2017-18 and 2018-19 respectively. In similar lines, DVC has claimed water & pollution cess for FY 2006-07 to FY 2011-12 as per actual expenditures incurred during the respective years based on the Annual Accounts duly audited by C&AG. Hon'ble Commission on previous occasions also allowed the expenditures in this regard based on the audited annual accounts. It is humbly submitted before this Hon'ble Commission that DVC has also claimed the expenditure in respect of Water and Pollution cess in the True-up petition (APR Petition) for the period



2006-07 to 2008-09 and 2009-10 to 2013-14 submitted before Hon'ble WBERC on 03.09.2020 and 06.08.2020 respectively in a manner similar to that has been done in the instant petition.

Views of the Commission

4.11 The Commission has considered the submissions of the Stakeholders and replies of the Petitioner.

Rebate on Sale of Power

Public Comments/Suggestions

Association of DVC HT Consumers of Jharkhand

4.12 The Petitioner has claimed amounts towards Rebate on Sale of Power to the tune of Rs. 14.31 Crores, Rs. 12.80 Crores, Rs. 11.37 Crores, Rs. 5.12 Crores, Rs. 3.05 Crores and Rs. 11.67 Crores for the years FY 2006-07, FY 2007-08, FY 2008-09, FY 2009-10, FY 2010-11 and FY 2011-12 respectively.

4.13 It is respectfully submitted that neither the JSERC Tariff Regulations 2005, nor the JSERC Tariff Regulations 2007 nor the JSERC Tariff Regulations 2010 have an enabling provision permitting the Distribution Licensees to claim Rebate on Sale of Power as part of their ARR.

4.14 Audited Accounts of DVC for the period FY 2006-07 to FY 2011-12 do not reflect any such expenses towards Rebate on Sale of Power.

4.15 From the Hon'ble Commission's Orders dated 22.11.2012, 19.04.2017 and 18.05.2018, it is evident that neither has the Petitioner claimed any Rebate on Sale of Power for the period the FY 2006-07 to FY 2011-12 nor has the Hon'ble JSERC allowed any such rebate.

4.16 Further, it is observed that the WBERC has not allowed any amounts towards Rebate on Sale of Power for DVC (West Bengal) in its Orders dated 19.06.2020 and 19.03.2020 respectively for the years FY 2006-07, FY 2007-08, FY 2008-09, FY 2009-10, FY 2010-11 and FY 2011-12 respectively. The Objector thereby seeks parity from the Hon'ble Commission.

4.17 In light of the same, it is prayed that the Hon'ble Commission may disallow the claim of the Petitioner towards Rebate on Sale of Power.



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- 4.18 The Petitioner has claimed rebate on sale of power to the tune of Rs. 58.32 Crores from FY 2006-07 to FY 2011-12.
- 4.19 It is respectfully submitted that the Petitioner has not claimed the rebate on sale of power from FY 2006-07 to FY 2011-12 at the time of True-Up of ARR from FY 2006-07 to FY 2013-14 before this Hon'ble Commission. However, in the instant Petition it has claimed rebate on sale of power for the period FY 2006-07 to FY 2011-12.
- 4.20 It is also pointed out that there are no such regulatory provisions in the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Distribution Tariff) Regulations, 2004, Jharkhand State Electricity Regulatory Commission (Terms and Conditions of Tariff Determination, Multi-Year Tariff Framework) Regulation, 2007 and the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2010 which provides framework for claiming rebate on sale of power. Hence, the Objector requests Hon'ble Commission to disallow the claim made by the Petitioner towards rebate on sale of power for the period FY 2006-07 to FY 2011-12 in the instant petition.

Petitioner Response

- 4.21 It is an already established fact that expenditure in respect of Rebate on Sale of Power' is a legitimate claim of the utility. Hon'ble JSERC in its earlier orders for dated 28.05.2019 (Table 22 of Page 65), 29.09.2020 (Table 18 of Page 48) and 30.09.2020 (Table 19 of Page 68) has allowed the cost of Rebate on Sale of Power for the years 2016-17, 2017-18 and 2018-19 respectively based on the claim of DVC as per the Audited Books of Accounts. Such rebate is an expenditure made by DVC and is directly related to sale of electricity to the consumers. Hon'ble Commission accordingly allowed the Rebate on Sale of Power, passed on to the consumers due to prompt payment of bills, as a pass through element while finalising the Aggregate Revenue Requirement (ARR). In similar approach, in the instant petition DVC has claimed the cost of Rebate on Sale of Power for the year's FY 2006-07 to FY 2011-12 for its distribution business in line with its Audited Annual Accounts for the respective years.
- 4.22 It is humbly submitted before this Hon'ble Commission that DVC has also claimed the cost of Rebate on Sale of Power in the APR petition (true-up

petition) for the period 2006-07 to 2008-09 and 2009-10 to 2013-14 submitted before Hon'ble WBERC on 03.09.2020 and 06.08.2020 respectively in a similar manner.

Views of the Commission

4.23 The Commission has considered the submissions of the Stakeholders and replies of the Petitioner.

Interest on Temporary Financial Accommodation

Public Comments/Suggestions

Association of DVC HT Consumers of Jharkhand

4.24 The Petitioner has claimed Rs. 54.38 Crores and Rs. 125.23 Crores towards Interest on temporary financial accommodation for FY 2010-11 and FY 2011-12 respectively.

4.25 The Petitioner's claim of Rs. 54.38 Crores and Rs. 125.23 Crores towards Interest on temporary financial accommodation is violative of the Tariff Regulations 2010. It is well settled in law that the Appropriate Commission is bound to follow its own Regulations while framing Orders. There is no ARR item such as Interest on temporary financial accommodation in the Tariff Regulations 2010 and hence, such claim ought to be disallowed. Hence, DVC cannot claim such amount before Hon'ble JSERC.

4.26 The frameworks of the Tariff Regulations (Interest on Working Capital) along with Supply Code (Security Deposit) provide sufficient cushion and security towards Working capital requirements. The Petitioner is to be held completely responsible for all defaults in complying with the provisions of the Supply Code. The receivables position of DVC demonstrates that the Petitioner has apparently allowed continuous power supply to JBVNL in spite of mounting receivable beyond the stipulated due dates of payment. This is contrasted with the fact that electricity supply of HT consumers is disconnected immediately upon payment default. The approach of claiming Interest on temporary financial accommodation is penalizing the timely paying customers at the cost of defaulter JBVNL. Such an approach promotes inefficiency and is against the interest of justice.

4.27 From the Hon'ble Commission's Orders dated 22.11.2012, 19.04.2017 and 18.05.2018, it is evident that neither has the Petitioner claimed any Interest



on temporary financial accommodation for the period the FY 2006-07 to FY 2011-12 nor has the Hon'ble JSERC allowed any such Interest on temporary financial accommodation.

- 4.28 Further, it is observed that the WBERC has not allowed any amounts towards Interest on temporary financial accommodation for DVC (West Bengal) in its Orders dated 19.06.2020 and 19.03.2020 respectively for the years FY 2006-07, FY 2007-08, FY 2008-09, FY 2009-10, FY 2010-11 and FY 2011-12 respectively. The Objector thereby seeks parity from the Hon'ble Commission.
- 4.29 In light of the same, it is prayed that the Hon'ble Commission may disallow the claim of the Petitioner towards Interest on temporary financial accommodation.

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- 4.30 The Petitioner has claimed Rs. 179.61 Crores towards interest on temporary financial accommodation for the period FY 2006-07 to FY 2011-12.
- 4.31 The Petitioner's claim of Rs. 179.61 Crore towards Interest on temporary financial accommodation is violative of the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Distribution Tariff) Regulations, 2004, Jharkhand State Electricity Regulatory Commission (Terms and Conditions of Tariff Determination, Multi-Year Tariff Framework) Regulation, 2007 and the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2010. It is well settled in law that the Appropriate Commission is bound to follow its own Regulations while framing Orders. There is no ARR item such as Interest on temporary financial accommodation in the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Distribution Tariff) Regulations, 2004, Jharkhand State Electricity Regulatory Commission (Terms and Conditions of Tariff Determination, Multi-Year Tariff Framework) Regulation, 2007 and the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2010 and hence, such claim ought to be disallowed. Any reference to WBERC Regulations/ Order will not entitle DVC to claim such amount before Hon'ble JSERC.
- 4.32 The frameworks of the Tariff Regulations (Interest on Working Capital) along with Supply Code (Security Deposit) provide sufficient cushion and security



towards Working capital requirements. The Petitioner is to be held completely responsible for all defaults in complying with the provisions of the Supply Code. This is contrasted with the fact that electricity supply of HT consumers is disconnected immediately upon payment default. The approach of claiming Interest on temporary financial accommodation is penalizing the timely paying customers at the cost of defaulters. Such an approach promotes inefficiency and is against the interest of justice

Petitioner Response

- 4.33 DVC submits that this Hon'ble Commission has allowed the cost of temporary financial accommodation in Tariff Orders dated 28.05.2019 (Table 22 of Page 65), 29.09.2020 (Table 18 of Page 48) and 30.09.2020 (Table 19 of Page 68) for the years 2016-17, 2017-18 and 2018-19 respectively based on the justifications and data submitted by DVC in different tariff petitions. DVC has also explained the legitimacy of such claims during different public hearings. This Hon'ble Commission therefore recognized it as a legitimate expense.
- 4.34 Regarding para 2.3.2 of the objector's submission it may be noted that Security Deposit and Interest on Working Capital are entirely different aspects of tariff and by any stretch of imagination cannot be entangled with the Interest on Temporary Financial Accommodation. Moreover, Late Payment Surcharge (LPSC) is treated as Non-Tariff Income (NTI) and adjusted entirely to reduce the ARR. Major part of LPSC is due to delayed payments made by the consumers & licensees. DVC has deducted NTI from ARR before state wise segregation. Therefore, DVC has claimed the cost of temporary financial accommodation.
- 4.35 DVC has also claimed the cost of temporary financial accommodation in the APR petitions submitted before Hon'ble WBERC. DVC respectfully submits that there are a number of judgments already passed by the Hon'ble Appellate Tribunal for Electricity in favor of allowing the additional cost incurred by the utilities due to delayed payment of electricity bills made by the consumers. As such the suggestions and objections made by the objector are devoid of any merit.

Views of the Commission

- 4.36 The Commission has considered the submissions of the Stakeholders and replies of the Petitioner.



Legal Expenses

Public Comments/Suggestions

Association of DVC HT Consumers of Jharkhand

- 4.37 The Petitioner has claimed amounts towards Legal Expenses pertaining to Distribution Activity to the tune of Rs. 0.02 Crores, Rs. 1.01 Crores, Rs. 1.48 Crores, Rs. 1.52 Crores, Rs. 1.60 Crores and Rs. 2.03 Crores for the years FY 2006-07, FY 2007-08, FY 2008-09, FY 2009-10, FY 2010-11 and FY 2011-12 respectively.
- 4.38 It is respectfully submitted that neither the JSERC Tariff Regulations 2005, nor the JSERC Tariff Regulations 2007 nor the JSERC Tariff Regulations 2010 have an enabling provision permitting the Distribution Licensees to claim Legal Expenses separately as part of their ARR.
- 4.39 Moreover, it is observed from the Hon'ble CERC Order dated 06.08.2009 in the Petition No. 66/2005 pertaining to Determination of tariff for generation and inter-State transmission of electricity by Damodar Valley Corporation for the period 1.4.2006 to 31.3.2009, in terms of the directions of the Appellate Tribunal for Electricity dated 23.11.2007 in Appeal No.273/2006, the Hon'ble CERC has approved O&M Expenses for DVC's Annual T&D (Transmission & Distribution) charges to the tune of Rs. 42.78 Crores, Rs. 44.49 Crores and Rs. 46.27 Crores respectively for the years FY 2006-07, FY 2007-08 and FY 2008-09. Also, in the Hon'ble CERC's Order dated 29.09.2017 pertaining to Truing-up of tariff of 2009-14 period of Transmission and Distribution System activities of the DVC network determined by order 27.9.2013 in Petition No. 270/TT/2012, the Hon'ble CERC has approved O&M Expenses for DVC's Annual T&D (Transmission & Distribution) charges to the tune of Rs. 154.2422 Crores, Rs. 176.8093 Crores and Rs. 186.9256 Crores for the years FY 2009-10, FY 2010-11 and FY 2011-12 respectively. Any amount pertaining to Legal Expenses for 'Distribution Activity' ought to be covered within these amounts permitted by the Hon'ble CERC and may not be claimed over and above such provisions.
- 4.40 From the Hon'ble Commission's Orders dated 22.11.2012, 19.04.2017 and 18.05.2018, it is evident that neither has the Petitioner claimed any Legal expenses for the period the FY 2006-07 to FY 2011-12 nor has the Hon'ble JSERC allowed any such Legal expenses.



- 4.41 Further, it is observed that the WBERC has not allowed any amounts towards Legal Expenses for DVC (West Bengal) in its Orders dated 19.06.2020 and 19.03.2020 respectively for the years FY 2006-07, FY 2007-08, FY 2008-09, FY 2009-10, FY 2010-11 and FY 2011-12 respectively. The Objector thereby seeks parity from the Hon'ble Commission.
- 4.42 In light of the same, it is prayed that the Hon'ble Commission may disallow the claim of the Petitioner towards Legal expenses.

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- 4.43 The Petitioner has claimed Legal Expenses to the tune of Rs. 7.67 Crores for the period from FY 2006-07 to FY 2011-12.
- 4.44 It is humbly submitted that there are no such regulatory provisions in the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Distribution Tariff) Regulations, 2004, Jharkhand State Electricity Regulatory Commission (Terms and Conditions of Tariff Determination, Multi-Year Tariff Framework) Regulation, 2007 and the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2010 which provides framework for claiming rebate on sale of power. Hence, the Objector requests Hon'ble Commission to may disallow the claim made by the Petitioner towards rebate on sale of power for the period FY 2006-07 to FY 2011-12 in the instant petition.
- 4.45 It is pointed out that the Regulation 8, 6.3.7 (a) and 6.4 (b) of the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Distribution Tariff) Regulations, 2004, Jharkhand State Electricity Regulatory Commission (Terms and Conditions of Tariff Determination, Multi-Year Tariff Framework) Regulation, 2007 and the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2010 respectively provides the provision of claiming Administrative and General expenses under Operation and Maintenance expenses which includes expenses attributable to the legal activity of the licensee.
- 4.46 The Petitioner is also getting Working Capital for meeting the day-to-day capital requirement of DVC. Hence, Objector requests Hon'ble Commission to may disallow the legal expenses as claimed by the Petitioner and reprimand the Petitioner to not claim the legal expenses over and above the Operation

and Maintenance expenses.

Petitioner Response

- 4.47 DVC submits that it has incurred substantial legal expenses in relation to the various court cases pertaining to its distribution activity in the states of Jharkhand and West Bengal. The WBERC (Terms and Conditions of Tariff) Regulations 2005, WBERC (Terms and Conditions of Tariff) Regulations 2007 and WBERC (Terms and Conditions of Tariff) Regulations 2011 all recognize and allow legal expenses. CERC allows the expenditures in respect of O&M activities regarding Generation and T&D system of DVC on normative basis and the same excludes O&M related to legal expenses incurred for distribution activity. Such normative O&M rates are also applicable for NTPC, NHPC, PGCIL etc. who are not a distribution licensee. The total legal expenses for distribution activities incurred by DVC during a particular year have been segregated between Jharkhand and West Bengal part of DVC in proportion to the quantum of sale in the respective states for the respective years.
- 4.48 The objector herein alleged that DVC is getting Interest on Working Capital hence it is not entitled for legal expenses. DVC in reply humbly submits the claimed legal expenses are only a part of ARR but cost of Working Capital is mainly related to Generation and Transmission activity and only a meagre IWC is allowed in distribution ARR related to purchase of power.
- 4.49 DVC has also claimed such legal expenses in the APR petition for the period 2006-07 to 2008-09 and 2009-10 to 2013-14 submitted before Hon'ble WBERC on 03.09.2020 and 06.08.2020 respectively. As such the objections made by the objector are devoid of any merit and misleading

Views of the Commission

- 4.50 The Commission has considered the submissions of the Stakeholders and replies of the Petitioner.



Non-tariff Income

Public Comments/Suggestions

Association of DVC HT Consumers of Jharkhand

- 4.51 The Petitioner has submitted amounts towards Non-Tariff Income to the tune of Rs. 7.65 Crores, Rs. 12.22 Crores, Rs. 24.26 Crores, Rs. 1.89 Crores, Rs. 7.63 Crores and Rs. 28.54 Crores for the years FY 2006-07, FY 2007-08, FY 2008-09, FY 2009-10, FY 2010-11 and FY 2011-12 respectively. DVC has not considered entire other income as per the audited accounts as non-tariff income.
- 4.52 The Objector submits that as per the Hon'ble JSERC Distribution Tariff Regulations, 2004, Hon'ble JSERC (Terms and Conditions of tariff determination, Multi-Year Tariff Framework) Regulation, 2007 and Hon'ble JSERC Distribution Tariff Regulations, 2010, Non-Tariff Incomes are to be reduced from the Gross ARR of the relevant year, which results in reduction of tariff.
- 4.53 That thus, even though its rightful to say that as per the provisions of the Hon'ble JSERC Distribution Tariff Regulations, 2004 the Non- Tariff income is inclusive of 'Delayed Payment Surcharge' and 'Meter rent', it is also pertinent to note that the same cannot be said to be necessarily limited to only 'Delayed Payment Surcharge' and 'Meter rent'.
- 4.54 Thus, it is evident from the provisions of the Hon'ble JSERC Distribution Tariff Regulations, 2010, that in the tariff determination process it is required to reduce all incomes incidental to the licensed business of DVC and also from the Other Business of DVC.
- 4.55 Therefore, the approach of considering only delayed payment surcharge for reduction from the ARR is contrary, not only to the provisions of the Hon'ble JSERC Distribution Tariff Regulations, 2004 and Hon'ble JSERC Distribution Tariff Regulations, 2010, but is also contrary to the Hon'ble JSERC's approach of reducing other items of Non-Tariff Income in case of other Distribution Licensees namely Jamshedpur Utilities & Services Company Limited (JUSCO) and Tata Steel Limited (TSL), under the jurisdiction of the Hon'ble JSERC. This can be evidenced from the Tariff Orders passed by the Hon'ble JSERC in the case of JUSCO and TSL.



- 4.56 The Objector also submits that in the case of Calcutta Electric Supply Corporation (hereinafter referred to as “CESC”), (a Power Sector Utility engaged in Generation and Distribution businesses, similar to DVC), the Hon’ble West Bengal Electricity Regulatory Commission (WBERC) has considered several heads under Non-Tariff Income in its Tariff Order dated 26.07.2010.
- 4.57 Also, the Non-Tariff Income as per audited accounts of DVC amount to Rs. 30,636.44 Lakh in 2006-07, Rs. 46,565.29 Lakh in FY 2007-08, Rs. 37,148.22 Lakh in FY 2008-09, Rs. 32,884.81 Lakh in FY 2009-10, Rs. 13,532.61 Lakh in FY 2010-11, Rs. 16,519.88 Lakh in FY 2011-12 and Rs. 34,747.00 Lakh in FY 2012-13.
- 4.58 Further, it is submitted that The Hon’ble Commission has made following observations in the Order dated 19.04.2017 while dealing with the issue of non-tariff income:

“Non-Tariff Income (NTI)

Commission’s Analysis:

5.51 The Commission observed that the Petitioner has claimed non-tariff income only to the extent of the Delayed Payment Surcharge (DPS). Further, the NTI, as reflected in the audited annual accounts, was in excess of the non-tariff income as claimed by the Petitioner. The Commission also notes that DVC, being a vertically integrated organisation, also carries out the business of generation and transmission of electricity besides distribution. Accordingly, the Commission directed the Petitioner to submit information on non-tariff income, as per audited accounts, segregated into generation, transmission and distribution business.

...

5.53 The Commission has taken note of the fact that entire capital expenditure of the Petitioner is attributable to the generation and transmission business as the Petitioner does not claim any capital expenditure for the distribution business. Accordingly, the non-tariff income, other than the Delayed Payment Surcharge, may be attributable to the generation and transmission business.



5.54 However, the Commission also notes that non-tariff income attributable to the generation and transmission business ultimately impacts the end-use consumer as the costs (net of any revenue) for generation and transmission business become the input costs for distribution business which drive the retail tariffs applicable for the end-consumer. Hence, the Commission directs the Petitioner to submit, within one month of notification of this Order, whether such non-tariff income has been accounted for in costs for the generation and transmission business of the Petitioner. Based on the justification provided by the Petitioner, the Commission may take an appropriate view on the same and pass suitable Orders to the effect.”

4.59 It is further submitted that in response to the directive of Commission, DVC filed its submissions before the Hon’ble Commission on 17.05.2017 submitting that the other items on non-tariff income have not been adjusted anywhere else viz. generation or transmission charges.

4.60 Thereafter, on a contempt Petition filed by the Objector (CONTEMPT PETITION (C) NO. 1197 OF 2018), the Supreme Court issued the following directions vide Order dated 26.10.2018–

“However, we request the APTEL to expedite the hearing of Appeal Nos. 163 of 2017 and 198 of 2017 expeditiously.”

4.61 With the issue of non-tariff income still pending before the Hon’ble APTEL even when there is no stay at any higher forum and when all the relevant details are available before the Hon’ble Commission, the delay in implementing the effect of same in the Tariff and passing on the benefits to consumers is keeping the consumers devoid of rightful reduction in tariffs.

4.62 Thus, the Objector prays, in the interest of justice, that the Hon’ble JSERC may approve Non-Tariff Income as per audited accounts of DVC amount to Rs. 30,636.44 Lakh in 2006-07, Rs. 46,565.29 Lakh in FY 2007-08, Rs. 37,148.22 Lakh in FY 2008-09, Rs. 32,884.81 Lakh in FY 2009-10, Rs. 13,532.61 Lakh in FY 2010-11 and Rs. 16,519.88 Lakh in FY 2011-12. Further, it is prayed that the Hon’ble Commission may direct DVC to provide on affidavit and certified by Statutory Auditor, the individual head- wise division of Non-Tariff Income attributable to its Generation, Transmission and Distribution



businesses for the period FY 2006-07 to FY 2011-12 and beyond, in order to set a right precedent and avoid future litigation.

Steel Authority of India Ltd. – Bokaro Steel Ltd.

4.63 The Petitioner has submitted the non-tariff income in its instant petition for the period FY 2006-07 to FY 2011-12 as Rs. 82.19 Crore. DVC has not considered the entire other income as non-tariff income.

4.64 Non-Tariff Income has been defined under the JSERC Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Distribution Tariff) Regulations, 2004, Jharkhand State Electricity Regulatory Commission (Terms and Conditions of Tariff Determination, Multi-Year Tariff Framework) Regulation, 2007 and the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2010 as under:

“21.1 Non-tariff income shall be the revenue in excess of the revenue collected on account of tariffs, as approved by the Commission; and shall include such items as Delayed Payment Surcharge (DPS) and Meter rent.

m) Non-Tariff Income means income relating to the Licensed business other than from tariff (Wheeling and Retail Supply), and excluding any income from Other Business, crosssubsidy surcharge and additional surcharge;

6.49 All incomes being incidental to electricity business and derived by the Licensee from sources, including but not limited to profit derived from disposal of assets, rents, delayed payment surcharge, meter rent (if any), income from investments other than contingency reserves, miscellaneous receipts from the consumers and income to Licensed business from the Other Business of the Licensee shall constitute non-tariff income of the Licensee;

6.50 The amount received by the Licensee on account of non-tariff income shall be deducted from the aggregate revenue requirement in calculating the net revenue requirement of such Licensee.”

4.65 The above definition of Non-tariff Income itself provides for items to be excluded from Non-tariff income. Any other income earned by the Petitioner has to be treated as Non-Tariff Income in terms of the aforesaid Regulations and applied as a reduction from the ARR.



4.66 The Hon'ble Commission has made following observations in the Order dated 19.04.2017 in the matter of True-Up for FY 2006-07 to FY 2013-14 and APR for FY 2014-15 while dealing with the issue of non-tariff income:

“Non-Tariff Income (NTI)

Commission's Analysis:

5.51 The Commission observed that the Petitioner has claimed non-tariff income only to the extent of the Delayed Payment Surcharge (DPS). Further, the NTI, as reflected in the audited annual accounts, was in excess of the non-tariff income as claimed by the Petitioner. The Commission also notes that DVC, being a vertically integrated organisation, also carries out the business of generation and transmission of electricity besides distribution. Accordingly, the Commission directed the Petitioner to submit information on non-tariff income, as per audited accounts, segregated into generation, transmission and distribution business.

...

5.53 The Commission has taken note of the fact that entire capital expenditure of the Petitioner is attributable to the generation and transmission business as the Petitioner does not claim any capital expenditure for the distribution business. Accordingly, the non-tariff income, other than the Delayed Payment Surcharge, may be attributable to the generation and transmission business.

5.54 However, the Commission also notes that non-tariff income attributable to the generation and transmission business ultimately impacts the end-use consumer as the costs (net of any revenue) for generation and transmission business become the input costs for distribution business which drive the retail tariffs applicable for the end-consumer. Hence, the Commission directs the Petitioner to submit, within one month of notification of this Order, whether such non-tariff income has been accounted for in costs for the generation and transmission business of the Petitioner. Based on the justification provided by the Petitioner, the Commission may take an appropriate view on the same and pass suitable Orders to the effect.”

4.67 It is submitted that the Hon'ble Commission has also noted that the non-tariff income attributable to the generation and transmission business ultimately

impacts the beneficiaries as the cost of generation and transmission business become the input costs for the distribution business of DVC which drive the retail tariffs applicable for the end-consumers of the DVC. Hence, Objector requests Hon'ble Commission to allow the non-tariff income as per audited annual accounts during FY 2006-07 to FY 2011-12 subject to a prudent check.

Petitioner Response

4.68 DVC has claimed Non-Tariff Income (NTI) as already approved and allowed by the Hon'ble Commission vide Tariff Order dated 18.05.2018 (Table 7 of Page 27). DVC would like to mention that this Hon'ble Commission has consistently approved and allowed NTI considering only Delay Payment Surcharge which qualifies as Non-Tariff Income as per the prevailing rules and regulations in case of DVC in its tariff orders dated 28.05.2019 (Table 22 of Page 65), 29.09.2020 (Table 18 of Page 48) and 30.09.2020 (Table 19 of Page 68) for the years 2016-17, 2017-18 and 2018-19 respectively. This Hon'ble Commission in the very first order i.e. the order dated 22.11.2012 held as under at para 5.33 & 5.34;

“Non-Tariff Income

Petitioner's Submission

5.33 The Petitioner submitted non-tariff income pertaining to revenue collected through delayed payment surcharge for DVC as a whole, for FY 2006-07, FY 2007-08, FY 2008-09, FY 2009-10 & FY 2010-11 as Rs. 7.65 Cr, Rs. 12.22 Cr, Rs. 24.26 Cr, Rs. 1.89 Cr & Rs. 7.63 Cr, respectively.

Commission's Analysis

5.34 The Commission's representatives verified the submission made by the Petitioner from the Accounting system (TALLY) of the Petitioner. Accordingly, the Commission approves the actual non-tariff income pertaining to delayed payment surcharge as Rs. 7.65 Cr, Rs. 12.22 Cr, Rs. 24.26 Cr, Rs. 1.89 Cr & Rs. 7.63 Cr, respectively for the aforementioned years.”

4.69 This Hon'ble Commission in the subsequent orders also has followed the same approach. DVC has also submitted all necessary justification for such consideration timely in compliance to the directives of this Hon'ble Commission. The Hon'ble West Bengal Electricity Regulatory Commission (WBERC) has also settled the issue of non-tariff income of DVC related to



distribution activity and has considered the non-tariff income as submitted by DVC on account of the income from Delay Payment Surcharge. Reference may be made to tariff order of DVC dated 24.08.2015 (para 3.8.6 & 4.10) for the period FY 2009-10 to FY 2013-14 and tariff order dated 19.06.2020 (para 4.10) for the period FY 2006-07 to FY 2008-09. Orders are in public domain and the objector should refer to the aforesaid.

- 4.70 JCADVC has filed Appeal No. 198 of 2017 before the Hon'ble Tribunal against the Commission's order dated 19.04.2017 which includes inter-alia the issue of Non-Tariff Income. The Appeal No. 198 of 2017 is pending before APTEL and the outcome of the appeal, if any, may be considered after being issued. It is to note that JCADVC has made no mention, herein, regarding NTI issue appealed in Appeal No. 198 of 2017. Therefore, the objections raised in this regard find no merit for consideration.

Views of the Commission

- 4.71 The Commission has considered the submissions of the Stakeholders and replies of the Petitioner.

Income Tax

Public Comments/Suggestions

Association of DVC HT Consumers of Jharkhand

- 4.72 The Petitioner has claimed amounts towards Income Tax to the tune of Rs. 243.52 Crores, Rs. 122.87 Crores and Rs. 94.35 Crores for the years FY 2006-07, FY 2007-08 and FY 2008-09 respectively, purportedly in accordance to the Regulation 7 of Hon'ble CERC Tariff Regulations 2004, which provide for separate recovery of income tax.
- 4.73 The Objectors submits that there have been several court proceedings in different forums pertaining to the issue of DVC Tariff for FY 2006-07 to FY 2011- 12 period. The same are listed below:

Proceedings in the CERC:

- A. CERC Proceedings in Petition No. 66/2005 pertaining to Determination of tariff for generation and inter-State transmission of electricity by Damodar Valley Corporation for the period 1.4.2006 to 31.3.2009, in terms of the directions of the Appellate Tribunal for Electricity dated 23.11.2007 in Appeal No. 273/2006.



The Final Order for the same was issued on 06.08.2009.

DVC has neither claimed nor has the Hon'ble CERC approved any amount for separate recovery of income tax in this Order dated 06.08.2009.

Proceedings in the JSERC:

- B. JSERC Proceedings pertaining to Provisional Tariff Determination of Annual Revenue Requirement for FY 2006-07 to FY 2010-11 in respect of Distribution and Retail Supply Business of Electricity for the part of Damodar Valley Area falling within the territory of the State of Jharkhand. The Final Order for the same was issued on 22.11.2012. DVC has neither claimed nor has the Hon'ble JSERC approved any amount for separate recovery of income tax in this Order dated 22.11.2012.
- C. JSERC Proceedings pertaining to True-up for FY 2006-07 to FY 2013-14 and Annual Performance Review for FY 2014-15 for DVC Command Area of Jharkhand. The Final Order for the same was issued on 19.04.2017. DVC has neither claimed nor has the Hon'ble JSERC approved any amount for separate recovery of income tax in this Order dated 19.04.2017.
- D. JSERC Proceedings pertaining to True-up for FY 2015-16 and ARR for FY 2016-17 to FY 2020-21 and revision of surplus amount approved in Order dated 19.04.2017 for DVC Command Area of Jharkhand. The Final Order for the same was issued on 18.05.2018. DVC has neither claimed nor has the Hon'ble JSERC approved any amount for separate recovery of income tax in this Order dated 18.05.2018.

Proceedings in the APTEL:

- E. Appeal No. 146 of 2009: The Hon'ble APTEL vide its Order dated 10.05.2010 had upheld the aforementioned CERC Order dated 06.08.2009 in Petition No. 66/2005. DVC has neither claimed nor has the Hon'ble APTEL approved any amount for separate recovery of income tax in this Order dated 10.05.2010.
- F. Appeal No. 163 of 2017
- G. Appeal No. 281 of 2018
- DVC has neither claimed nor raised the issue pertaining to any amount for separate recovery of income tax, before the APTEL in either of the appeals 163 of 2017 or 281 of 2018.

Proceedings in the Supreme Court:

- H. Civil Appeal No. 4881 of 2010: The Hon'ble Supreme Court vide its Order



dated 03.12.2018 had upheld the aforementioned APTEL Order dated 10.05.2010 in Petition No. 146/2009. DVC has neither claimed nor has the Hon'ble Supreme Court approved any amount for separate recovery of income tax in this Order dated 10.05.2010.

4.74 Thus, as can be observed, despite several instances over a span of around 12 years, to raise issue pertaining to income tax, the Petitioner has not raised the same and has only done so now.

4.75 Further, Section 11 of the Code of Civil Procedure, 1908 deals with the Doctrine of Res Judicata which states as under:

“No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court.”

4.76 Further, Explanation IV to Section 11 of the Code of Civil Procedure, 1908 states as under:

“Explanation IV. —Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.”

4.77 This principle of law, known as “Constructive Res-Judicata” in common law parlance provides that if a plea could have been taken by a party in a proceeding between him and his opponent, he should not be permitted to take that plea against the same party in a subsequent proceeding with reference to the same subject-matter. That clearly is opposed to considerations of public policy on which the doctrine of res judicata is based and would mean harassment and hardship to the opponent. Besides, if such a course is allowed to be adopted, the doctrine of finality of judgments pronounced by the courts would also be materially affected. The doctrine of res judicata or constructive res judicata predominantly is a principle of equity, good conscience and justice. It would neither be equitable nor fair nor in accordance with the principles of justice that the issue concluded earlier ought to be permitted to be raised later in a different proceeding as has been held by the Hon'ble Supreme Court in the Case of Rajendra Kumar v. Kalyan (2000) 8 SCC 99.



- 4.78 In the present case, where there have been several issues raised between the same parties before four competent courts, namely Learned JSERC, CERC, APTEL and Hon'ble Supreme Court of India, not even once has DVC raised the issue pertaining to separate recovery of Income tax and the same may be barred by Constructive Res Judicata as it is against the Principles of Natural Justice.
- 4.79 For the sake of argument, even if it is submitted that the rule of res judicata as indicated in Section 11 of the Code of Civil Procedure has no doubt some technical aspects, for instance, the rule of constructive res judicata may be said to be technical; but the Hon'ble Commission must consider that the basis on which the said rule rests is founded on consideration of public policy. It is in the interest of the public at large that a finality should attach to the binding decisions pronounced by Courts of competent jurisdiction, and it is also in the public interest that individuals should not be vexed twice over with the same kind of litigation. Reliance is being placed on Daryao vs. State of U.P.; State of Maharashtra vs M/s. National Construction Company, Bombay and Sushil Kumar Mehta vs. Gobind Ram Bohra.
- 4.80 Further, it is neither in doubt nor in dispute that the issues of res judicata and/ constructive res judicata as also the maintainability of the suit can be adjudicated upon as preliminary issues. Such issues, in fact, when facts are admitted, ordinarily should be decided as preliminary issues reliance is being placed on Abdul Rahman v. Prasony Bai AIR 2003 SC 718.
- 4.81 In light of the abovementioned principle and the cases cited thereunder, it is most humbly submitted that DVC should be barred from taking any plea with regards to a separate recovery of Income tax at this stage, especially when the judgment has been finalized by the Hon'ble Supreme Court.
- 4.82 It is pertinent to emphasize here that, as per the APTEL Order dated 10.05.2010, which has been upheld by the Hon'ble Supreme Court vide its Order dated 03.12.2018, states as thus:
- “106. In view of our conclusions mentioned above, we are to hold that the Central Commission has correctly decided all the issues raised before it after careful consideration, in the light of the findings rendered by this Tribunal and in accordance with law. It must be made clear that the Central Commission has followed and complied with all the directions given by this Tribunal in letter and spirit.*



107. Since, we do not find any substance in the grounds raised in the Appeal, we deem it fit to dismiss the Appeal as devoid of merits. Consequently, we direct the Appellant (DVC) to implement the Tariff as determined by the Central Commission vide its order dated 06.08.2009. DVC is also directed to revise the electricity bills raised by it for electricity consumption during April, 2006 onwards of its licensees and HT consumers and refund the excess amount billed and collected along with the interest at the rate of 6% per annum in line with Section 62(6) of The Electricity Act, 2003. Alternatively, the Appellant (DVC) may adjust the excess amount recovered, along with interest at the rate of 6% per annum, in 24 equal monthly prospective installments, starting from July, 2010 by giving credit in the monthly bills of the consumers/licensees. Thereafter, the DVC is directed to approach the concerned State Electricity Commissions for getting the final order relating to the Retail Tariff who in turn will fix the retail tariff according to law.”

- 4.83 Thus, as can be observed, the Hon’ble APTEL has directed DVC to implement the Tariff as determined by the Central Commission vide its order dated 06.08.2009. That, since the Hon’ble CERC’s Order dated 06.08.2009, does not provide for any claim of Income Tax, the claim made by the Petitioner in the instant petition is extraneous to the same and ought not to be considered in the current proceedings.
- 4.84 Thus, the Objector prays that the Hon’ble Commission may disallow the claim towards Income Tax made by the Petitioner in the instant petition for the years FY 2006-07, FY 2007-08 and FY 2008-09.
- 4.85 Notwithstanding the above, the Objector further submits that the Petitioner has claimed the entire amounts Rs. 243.52 Crores, Rs. 122.87 Crores and Rs. 94.35 Crores booked in its audited accounts for the years FY 2006-07, FY 2007-08 and FY 2008-09 respectively, which in itself is violative of the Regulations 7 and 8 of Hon’ble CERC Tariff Regulations 2004.
- 4.86 The relevant extracts of the Regulations 7 and 8 of Hon’ble CERC Tariff Regulations 2004 are reproduced below

“7. Tax on Income: (1) Tax on the income streams of the generating company or the transmission licensee, as the case may be, from its core business, shall be computed as an expense and shall be recovered from the beneficiaries.



(2) Any under-recoveries or over-recoveries of tax on income shall be adjusted every year on the basis of income-tax assessment under the Income-Tax Act, 1961, as certified by the statutory auditors.

Provided that tax on any income stream other than the core business shall not constitute a pass through component in tariff and tax on such other income shall be payable by the generating company or transmission licensee, as the case may be.

Provided further that the generating station-wise profit before tax in the case of the generating company and the region-wise profit before tax in case of the transmission licensee as estimated for a year in advance shall constitute the basis for distribution of the corporate tax liability to all the generating stations and regions.

Provided further that the benefits of tax-holiday as applicable in accordance with the provisions of the Income-Tax Act, 1961 shall be passed on to the beneficiaries.

...

Provided further that income-tax allocated to the thermal generating station shall be charged to the beneficiaries in the same proportion as annual fixed charges, the income-tax allocated to the hydro generating station shall be charged to the beneficiaries in the same proportion as annual capacity charges and in case of interstate transmission, the sharing of income-tax shall be in the same proportion as annual transmission charges.”

8. Tax Escrow Mechanism: (1) The beneficiaries shall maintain an interest bearing tax escrow account in a scheduled bank, to which all amounts of interest shall be credited.

(2) The tax liability shall be estimated two months before the commencement of each year and intimated to the beneficiaries. The generating company or the transmission licensee shall endeavour to minimize its liability on account of taxes recoverable from the beneficiaries.

(3) The generating company or the transmission licensee shall be authorised to withdraw the amounts for settling the income-tax liability on presentation to the escrow holder, a certificate from their statutory auditors that the amounts are immediately due and payable to the taxing authority.

(4) The generating company or the transmission licensee shall pay into the tax escrow account any refund received from the taxing authority.

(5) The refunds, if any, shall not be paid back to the beneficiaries and shall



be adjusted in the escrow account. Any balance due or returnable shall be rolled over to the next year.

(6) The escrow accounts shall be reflected in the books of accounts of the beneficiaries as their bank account”

4.87 As can be observed from the above extract, the Regulation 7 and 8 mandates the DVC to:

- A. To ensure that the income tax amount is a part of the core business and not attributable to income from other business.
- B. To ensure that the basis for distribution of the corporate tax liability to all the generating stations and regions would be made on a year-in-advance estimate of generating station-wise profit before tax in the case of the generating company and the region-wise profit before tax in case of the transmission licensee.
- C. To ensure that the benefits of tax-holiday as applicable in accordance with the provisions of the Income-Tax Act, 1961 shall be passed on to the beneficiaries.
- D. To ensure that the income-tax allocated to the thermal generating station shall be charged to the beneficiaries in the same proportion as annual fixed charges, the income-tax allocated to the hydro generating station shall be charged to the beneficiaries in the same proportion as annual capacity charges and in case of interstate transmission, the sharing of income-tax shall be in the same proportion as annual transmission charges.
- E. To maintain an interest bearing tax escrow account in a scheduled bank, to which all amounts of interest shall be credited.
- F. To estimate the tax liability two months before the commencement of each year and intimate to the beneficiaries.
- G. To endeavor to minimize its liability on account of taxes recoverable from the beneficiaries.
- H. To ensure that the escrow accounts shall be reflected in the books of accounts of the beneficiaries as their bank account.

4.88 From the submission of DVC, it is observed that:

- A. DVC has not proven that the income tax amount is a part of the core business and not attributable to income from other business.
- B. DVC has not provided the year-in-advance estimate of its profit before tax
- C. DVC has not provided information of any tax-holiday as applicable in



accordance with the provisions of the Income-Tax Act, 1961.

- D. DVC has not proportioned the income tax amounts in proportion to the Annual Fixed Charges that are duly attributable to the beneficiaries (according to energy availability).
 - E. DVC has not provided proof of a separate interest bearing tax escrow account in a scheduled bank, to which all amounts of interest shall be credited.
 - F. DVC has not provided evidence towards estimation of the tax liability two months before the commencement of each year and intimation of the same to the beneficiaries.
 - G. DVC has not provided evidence towards any efforts made by it towards minimizing its liability on account of taxes recoverable from the beneficiaries.
 - H. DVC has not indicated if escrow accounts have been reflected in its books of accounts as its bank account
- 4.89 Moreover, from the Order dated 19.04.2017, the Petitioner has submitted the following:

“Power Purchase from Central Sector Generating Stations (CSGS) and other sources

Petitioner’s Submission

5.13 The Petitioner submitted that it is also purchasing power from CSGS and other sources to meet the energy requirements in the DVC area. During FY 2006-07, FY 2007-08, FY 2008-09, FY 2009-10 & FY 2010-11, the Petitioner made gross power purchase of 717 MU, 617 MU, 717 MU, 752 MU & 754 MU, respectively from NTPC, NHPC, PTC & other sources (excluding net power purchased under Unscheduled Interchange mechanism). The net power purchase for the aforementioned years, after considering the eastern region losses @ 2.5%, was 693 MU, 594 MU, 689 MU, 729 MU & 734 MU, respectively.

5.14 Further, during the period FY 2006-07 to FY 2010-11, the Petitioner also purchased & sold power through the Unscheduled Interchange (UI) mechanism. The net power purchased by DVC through UI (i.e. power purchased less power sold under UI mechanism) during FY 2006-07, FY 2007-08, FY 2008-09, FY 2009-10 & FY 2010-11 was - 833 MU, -456 MU, - 324 MU, 1625 MU & 1782 MU respectively.



5.15 Accordingly, the net power purchase from CSGS & other sources (including UI) during the aforementioned period works out to be 693 MU, 594 MU, 689 MU, 2354 MU & 2516 MU, respectively and same has been considered for estimating the energy availability.

4.90 Thus, as can be observed, the Petitioner had purchased power from several Central Sector Generating Stations (CSGS) such as NTPC and NHPC as well as from other sources. The Petitioner ought to provide the breakup of income tax for each of these individual sources duly approved by Statutory Auditor Certificate and proper evidence towards such income tax claims.

4.91 Moreover, it can be observed that neither the JSERC Tariff Regulations 2005 nor the JSERC Tariff Regulations 2007 have an enabling provision permitting the Distribution Licensees to claim Income Tax as part of their ARR.

4.92 In fact, the DVC, in the instant petition has stated that statutory levies like taxes imposed by the Central or State Governments or any other competent authority would not be part of the proposed tariff. The relevant extract of the instant petition is reproduced below:

“31. DVC humbly submits that during FY 2006-07 to FY 2009-10 it preferred bills to its consumers / licensees as per the prevailing tariff structure as approved by the DVC Board under Section 20 of the DVC Act. DVC in the instant petition has therefore proposed the similar tariff structure, for simplicity in billing, as was prevailing during the said period, however, the rates have been revised based on revised ARR. Salient features of the tariff proposed herein for the period from FY 2006-07 to FY 2009-10 are as under:

...

m. All statutory levies like electricity duty or any other taxes, duties etc. imposed by the State Govt. or Central Govt. or any other competent authority shall be extra and shall not be a part of the proposed tariff”

4.93 Further, it is observed that the WBERC has not allowed any amounts towards Income Tax for DVC (West Bengal) in its Orders dated 19.06.2020 and 19.03.2020 respectively for the years FY 2006-07, FY 2007-08, FY 2008-09, FY 2009-10, FY 2010-11 and FY 2011-12 respectively. The Objector thereby seeks parity from the Hon'ble Commission.

4.94 Thus, notwithstanding the prayer made at para 2.6.9, 2.6.12 and 2.6.21 of the instant Objections Report, the Objector prays that the Hon'ble Commission



may outrightly reject the claim of the Petitioner towards Income Tax on account of violation of Regulations 7 and 8 of the CERC Tariff Regulations 2004 and on account of absence of any provision in the JSERC Tariff Regulations 2005 and the JSERC Tariff Regulations 2007 permitting the Distribution Licensees to claim Income Tax as part of their ARR.

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- 4.95 The Petitioner has submitted the income tax to the tune of Rs. 460.74 Crore for the period from FY 2006- 07 to FY 2011-12.
- 4.96 It is humbly submitted that there are no such regulatory provisions in the Jharkhand State Electricity Regulatory Commission (Terms and Conditions for Distribution Tariff) Regulations, 2004, Jharkhand State Electricity Regulatory Commission (Terms and Conditions of Tariff Determination, Multi-Year Tariff Framework) Regulation, 2007 which provide framework for claiming Income Tax. Hence, the Objector requests Hon'ble Commission to may disallow the claim made by the Petitioner towards Income Tax for the period FY 2006-07 to FY 2011-12 in the instant petition.

Petitioner Response

- 4.97 DVC submits that CERC in its order dated 08.05.2013 in respect of the Generation and Transmission Tariff for the period 2006-07, 2007-08 and 2008-09 has approved and allowed Return on Equity (ROE) component of the Fixed Charges as per Reg. 21(1)(iii) of CERC Tariff Regulations 2004 applicable for the tariff period 2006-07 to 2008-09 in case of DVC. Such approved ROE is pre-tax ROE i.e. without factoring the tax paid. However, from FY 2009-10 onwards CERC Tariff Regulations provide for post-tax ROE i.e. after factoring the tax part in computation of the rate of ROE. The Hon'ble Central Commission in its (Terms and Conditions of Tariff) Regulations, 2004 has provided for separate recovery of the income tax as stated below:

"7. Tax on Income: (1) Tax on the income streams of the generating company or the transmission licensee, as the case may be, from its core business, shall be computed as an expense and shall be recovered from the beneficiaries."

- 4.98 DVC has accordingly claimed in the current petition the actual income tax as per the Annual Accounts for FY 2006-07 to FY 2008-09 audited by C&AG as a part of the ARR, and has apportioned the same to Jharkhand in proportion of the quantum of energy sold in Jharkhand during the respective years in a



manner similar to segregation of other common elements of ARR viz. fixed charges, energy charge, T&D tariff etc. between Jharkhand and West Bengal parts of DVC. From the Audited Accounts it is pretty clear that such tax is entirely related to the core business of DVC. DVC did not have to pay any income tax in other two revenue earning activities i.e. irrigation and flood control during the period 2006-07 to 2008-09.

4.99 It may be noted that true-up for the period under consideration i.e. FYs 2006-07 to 2011-12 has not yet reached its finality. Relevant para of the DVC's retail tariff order dated 18.05.2018 in this regard is reproduced below;

"8.4 Further, the Commission in its Order dated 19.01.2018 in Case No 07 of 2017 had also stated:

"In view of the said admitted position and the facts and circumstances appearing on record, we are of the view that during the pendency of Appeal No. 198 of 2017 filed by the petitioner in this case and Appeal No. 163 of 2017 filed by the respondent, DVC, before the Hon'ble Appellate Tribunal for Electricity, the order dated 19.4.2017 passed in Case (T) No. 02 of 2016 cannot be said to have attained its finality and it would not be proper to pass any order in the instant case for refund of excess charges claimed by the petitioners at this stage. "

Accordingly, the Commission has not considered the revenue surplus till FY 2014-15, at the moment."

4.100 As such the allegations made by the objector on the claim of DVC being time barred is incorrect and devoid of any merit. DVC has entirely followed the directives of this Hon'ble Commission. This Hon'ble Commission may be pleased to note that DVC has also claimed actual Income Tax as per the audited accounts in the APR (True-up) petition for the period 2006-07 to 2008-09 submitted before Hon'ble WBERC on 03.09.2020.

Views of the Commission

4.101 The Commission has considered the submissions of the Stakeholders and replies of the Petitioner.



Revenue and sales attributable to JBVNL to be included in ARR calculation

Public Comments/Suggestions

Association of DVC HT Consumers of Jharkhand

4.102 In the instant petition, the Petitioner has stated that

“DVC also submits that any further adjustment of revenue of JBVNL for the period 2006-07 to 2011-12 is not required in view of a full and final settlement of past dues of JBVNL till September 2015 under UDAY scheme has already been done mutually. Accordingly, DVC does not have any further obligation for any refund to JBVNL.

DVC humbly submits that JBVNL has still been purchasing limited power (around 60 MW) from DVC in consumer mode at 4 (four) nos. off take points in addition to purchase of generator specific power in schedule mode. As such refund for the said period is not related to consumer ship of JBVNL as held by the Hon'ble Commission quoted above and instead is related to the fact that a full and final settlement with JBVNL has already been done by DVC wherein both the parties agreed to consider the settlement as full and final settlement.

In compliance to the directive of the Hon'ble Commission, DVC submits this petition in respect of determination of ARR and Retail Tariff for the period 2006-07 to 2011- 12 applicable to the both consumers and licensees (except JBVNL) with retrospective effect.”

4.103 The Hon'ble Commission in its Order dated 30.09.2020 has stated that

“8.3 The Commission has however observed that the Petitioner has proposed passing on the Surplus approved from FY 2006-07 to FY 2011-12 on one-to-one basis to its consumers based on the tariff that the Commission may approve. However, the Petitioner has not submitted any Petition for the same along with the category wise and consumer wise Billing Details for the respective years. In addition, the Commission has observed that the Petitioner has not submitted the proportion of Sales or Revenue attributable to JBVNL that has to be withheld as it is no longer a consumer of DVC. As interest of various stakeholders are to be taken care of in just and fair manner therefore a separate proceeding needs to be initiated so that views of all the stakeholders are taken before deciding the matter. Hence, the Commission

directs the Petitioner to submit the detailed proposal as a separate Petition along with the requisite details such as the consumer wise and category wise Billing Details for FY 2006-07 to FY 2011-12 for Determination of Categorywise Tariff and the quantum of Sales and Revenue attributable to JBVNL that may be withheld as JBVNL is no longer the consumer of DVC, within 1.5 months of issue of this Order.”

4.104 The Objector humbly submits that the DVC’s claim that ‘any further adjustment of revenue of JBVNL for the period 2006-07 to 2011-12 is not required in view of a full and final settlement of past dues of JBVNL till September 2015 under UDAY scheme has already been done mutually. Accordingly, DVC does not have any further obligation for any refund to JBVNL.’, is misleading, and the Hon’ble Commission is requested to neither permit the same nor the exclusion of JBVNL from the calculation of ARR recoverable. The Objector has explained in the following paragraphs why such claim by the DVC is questionable.

4.105 The DVC has preferred bills to JBVNL and other consumers for the years FY 2006- 07 to April, 2010 on the basis of the tariff schedule and other terms and conditions of tariff as approved by the DVC Board, i.e. the tariff schedule and ‘terms and conditions of tariff’ last approved by the DVC Board and applicable with effect from September 2000. From May, 2010 to FY 2011-12, the DVC has preferred bills to JBVNL and other consumers provisionally as per tariff prescribed in accordance to the interim order of the Hon’ble APTEL dated 16.09.2009 in A. No. 146 of 2009.

4.106 As per Clause 8 of this tariff schedule, DVC has apparently provided a rebate of 15% on both the Demand and Energy Charge to JBVNL (erstwhile Jharkhand State Electricity Board [JSEB], which itself was carved out of the erstwhile Bihar State Electricity Board [BSEB]). The relevant extract of this tariff schedule is provided below:

“8. Rebate to SEBs: A rebate to 15% on both Demand Charge and Energy Charge will be allowed for supply of power to WBSEB and BSEB”

4.107 The Objector submits that the ‘tariff schedule and terms and conditions of tariff last approved by the DVC Board and applicable with effect from September 2000’ lost its applicability for the period from FY 2006-07 (since the enactment of Electricity Act 2003), as adjudged in the Hon’ble Supreme Court’s



Order dated 03.12.2018, which has upheld the Final Hon'ble APTEL's Order dated 10.05.2010 in A. No. 146 of 2009, which in turn has upheld the Hon'ble CERC's Order dated 06.08.2009. The relevant extract of the Order is reproduced below:

“103. Three things have got to be borne in mind on this issue (1) By the Remand Order dated 23.11.2007, the Tribunal categorically found that Section 20 of the DVC Act under which tariff is determined by the DVC is inconsistent with the Electricity Act and therefore it shall stand superseded; (2) By the impugned order dated 06.08.2009 the tariff has now been fixed by the Central Commission which alone is the competent authority to fix the tariff for the Appellant under the Electricity Act. Admittedly, as on date, Section 20 of DVC Act is not in force which already stood superseded.

...

104. Under the above circumstances, the Application filed by the DVC in IA No. 349/09 seeking for the permission to continue to collect the tariff fixed by the DVC under section 20 of the DVC Act could not be sustained (1) especially when the final order had already been passed by the Central Commission on 06.08.2009 fixing the tariff; (2) particularly when the said tariff order has not been stayed by this Tribunal and (3) more particularly when we feel prima facie that impugned tariff order passed by the Central Commission is valid.”

4.108 Thus, as part of DVC's alleged 'full and final settlement with JBVNL', the JBVNL has ostensibly retained '15% rebate on both Demand Charge and Energy Charge', which is in violation of the Hon'ble Supreme Court's Order dated 03.12.2018 and the orders that it has effectively upheld. 2.7.7 Hence to prevent unjust enrichment of JBVNL and damage to the other consumers, the Objector prays that the Hon'ble JSERC may direct DVC to a) reverse such rebate provided to JBVNL, b) to revise the electricity bills raised by DVC from FY 2006-07 to all consumers (including JBVNL, which was procuring power in consumer mode from DVC) and c) to implement and refund the appropriate refund amount (difference between revised bill and payment received) to DVC consumers in accordance to the APTEL judgement dated 10.05.2010:

“107. Since, we do not find any substance in the grounds raised in the Appeal, we deem it fit to dismiss the Appeal as devoid of merits. Consequently, we direct the Appellant (DVC) to implement the Tariff as determined by the Central Commission vide its order dated 06.08.2009. DVC is also directed to



revise the electricity bills raised by it for electricity consumption during April, 2006 onwards of its licensees and HT consumers and refund the excess amount billed and collected along with the interest at the rate of 6% per annum in line with Section 62(6) of The Electricity Act, 2003. Alternatively, the Appellant (DVC) may adjust the excess amount recovered, along with interest at the rate of 6% per annum, in 24 equal monthly prospective installments, starting from July, 2010 by giving credit in the monthly bills of the consumers/licensees. Thereafter, the DVC is directed to approach the concerned State Electricity Commissions for getting the final order relating to the Retail Tariff who in turn will fix the retail tariff according to law.”

Petitioner Response

4.109 DVC submits that it has already settled its past dues with JBVNL up to September 2015 under the UDAY scheme of the Government of India. This settlement was full and final settlement as agreed by both the parties. DVC has highlighted it in the subject petition also. Accordingly, DVC has deducted the billed revenue of JBVNL for each year during the period 2006-07 to 2011-12 from the ARR of respective years and has proposed to determine tariff based on the remaining ARR for all consumers & licensees other than JBVNL. During the period 2006-07 to 2009-10 and up to April 2010 there was no regulatory tariff available with DVC. Hence DVC preferred the bills as per the tariff approved by DVC Board. DVC has also submitted in the main Appeal that Hon'ble Appellate Tribunal in its interim order dated 16.09.2009 in Appeal IA No. 264 of 2009 of the main Appeal No. 146 of 2009 directed DVC to continue to prefer bills as per the existing tariff i.e. the DVC approved tariff. DVC in the said tariff allowed 15% rebate on demand charge and energy charge to the State Boards of Jharkhand (erstwhile Bihar) and West Bengal. The allegation made by the objector that such consideration has enriched JBVNL is totally misleading and contradictory in nature. Even in the current tariff also the tariff approved for HT Institutional Service (HTIS category) is lower than the tariff applicable for HV and EHV consumers under HTS category. Hon'ble Commission can approve different tariff for different category of consumers/licensees. Energy charge rate of HTIS category is around 10% lower than that of HTS category in the current tariff order dated 30.09.2020. The objector Association has not objected to such tariff determination by this Hon'ble Commission and on the contrary has accepted the same. As such the



approach earlier adopted by DVC was in no way meant for undue enrichment of the JBVNL being not the end user of electricity. DVC further submits that applicable 15% rebate on energy charge in the existing DVC's tariff for 2006-10 period was applicable only on base energy charges @ 163 Paise/ kWh and not applicable on Fuel Cost Surcharge (FCS). In the DVC's approved tariff scheme there were various incentives e.g. incentive for TOD consumers that too in the range of 35% of energy charge was not availed by JBVNL. As such the allegation of JCADVC that only JBVNL has enriched by virtue of DVC's old tariff is absolutely misleading and a baseless comment. Many other consumers have also availed the inherent benefits of the DVC's tariff scheme.

4.110 It may also be noted that the energy charge rates as approved by this Hon'ble Commission in the tariff order dated 30.09.2020 includes around 50% of the fixed cost in respect of own Generation and Transmission activities. As such around 10% lower energy charge rate of HTIS category gets applied on recoverable fixed cost part to that extent as well. DVC has proposed in the instant petition to continue with the rebate and incentive schemes which were existing during the relevant period i.e. FY 2006 07 to 2009-10 so that the disciplined consumers who maintained a good consumption profile and made regular payment of the bills can get their appropriate share of refund. Therefore, if the contention of JCADVC at Table 6 and at para 2.9.13 is to be agreed to this will lead to depriving the good consumers i.e., Indian Railways, CCL, BCCL, TISCO and many other of their legitimate share of refund. JCADVC does not represent the entire consumer base of DVC. Hence their entire proposition is targeted towards their advantage only and therefore not a legitimate proposition. Many consumers who made short payment on the garb of the interim judgment of Hon'ble Tribunal dated 08.10.2009 in IA Nos. 264/2009, 284/2009, 287/ 2009 in Appeal No. 146 of 2009 related to "Honest Calculation of Energy Charge Rate" are trying to avoid their refundable amount based on some biased and misleading propositions at the cost of disciplined consumers. Hon'ble Commission is aware of the fact that in compliance to the directive of the Hon'ble Tribunal in the judgment dated 10.05.20 10 DVC shifted from own tariff to Regulatory tariff with effect from May 2010. As such during FY 2010 11& 2011-12 DVC adopted a single part tariff computed on normative basis based on the CERC tariff orders related to own Generation and Transmission activities. Therefore, the billed revenue of JBVNL deducted



from ARR for the period 2010-11 & 2011-12 is based on the electricity bills preferred based on the single part tariff as mentioned and the tariff excludes any additional rebate to JBVNL. Accordingly, DVC has proposed for simple two-part tariff determination for FY 2010-11 and 2011-12 so that rebates/incentives remain almost same as the existing tariff. It is pertinent to mention here that WBERC also while determining the ARR for DVC in its tariff order dated 19.06.2020 for the period 2006-07 to 2008-09 adopted the same methodology, wherein, the billed revenue from sale to WBSEDCL has been deducted from total ARR to determine tariff for rest of the consumers in the state of West Bengal. (ref: Table XIX at page 53 & 54 of the WBERC tariff order dated 19.06.2020). DVC humbly submits before this Hon'ble Commission that from September 2015 onwards JBVNL has again continued to make short payments of its bills, as a result of which huge outstanding dues have accumulated against JBVNL. Till date dues of JBVNL is more than Rs. 4500 Crs. against energy sale to JBVNL in firm mode as well as schedule mode. JBVNL has already settled its past dues up to September 2015 under the UDAY scheme of the Government of India. Such settlement is full and final settlement as agreed by both the parties. Under this situation reopening of already settled part of JBVNL may invite complications if done without the consent of JBVNL. DVC has highlighted it in the instant petition and also in the Road Map submitted earlier.

Views of the Commission

4.111 The Commission has considered the submissions of the Stakeholders and replies of the Petitioner.

Retrenchment of Bills by DVC Consumers, corresponding arrears/instalments, and applicability of rebates in current tariff period

Public Comments/Suggestions

Association of DVC HT Consumers of Jharkhand

4.112 It is submitted that the contention of the Petitioner that the bills preferred by DVC based on its own tariff were retrenched by most of the consumers and DVC had to continue power supply despite of unpaid dues, is misguided as it has already been set in stone by the Hon'ble Supreme Court's Order dated



03.12.2018, which has upheld the Final Hon'ble APTEL's Order dated 10.05.2010 in A. No. 146 of 2009 that the that Section 20 of the DVC Act under which tariff is determined by the DVC is inconsistent with the Electricity Act and therefore it shall stand superseded and the Application filed by the DVC in IA No. 349/09 seeking for the permission to continue to collect the tariff fixed by the DVC under section 20 of the DVC Act could not be sustained.

4.113 Also, it is also understood that the statement made by the Hon'ble APTEL in its Order dated 22.07.2009 in A.No.85 of 2009, i.e., 'the arrears on account of FCS formulae based on DVC's tariff order dated 01.09.2000 is to be liquidated with delayed payment charge at the rate applicable to the defaulting consumers of the State of Jharkhand within a period of six months from the date of this judgment', is no longer in force as it has already been set in stone by the Hon'ble Supreme Court's Order dated 03.12.2018, which has upheld the Final Hon'ble APTEL's Order dated 10.05.2010 in A. No. 146 of 2009 that the that Section 20 of the DVC Act under which tariff is determined by the DVC is inconsistent with the Electricity Act and therefore it shall stand superseded and the Application filed by the DVC in IA No. 349/09 seeking for the permission to continue to collect the tariff fixed by the DVC under section 20 of the DVC Act could not be sustained.

4.114 Thus, the Objector prays that the Hon'ble Commission may disregard the claim made by the Petitioner in the matter of retrenchment of bills.

4.115 Notwithstanding the above, it is prayed that the Hon'ble Commission may:

- a. Determine category wise retail tariff for the period 2006-07 to 2011-12 and thereafter direct DVC to revise the bills preferred earlier by DVC as per the said approved tariff.
- b. If the resulting differential amount i.e. the difference between the revised bills and actual payment realized, is adjudged as recovery from an individual consumer/licensee, the same may be done along with 6% yearly simple interest in in 24 equal monthly prospective instalments in terms of the Order of the Hon'ble Appellate Tribunal in the judgement dated 10.05.2010 in the Appeal No. 146 of 2009.
- c. It is prayed that in the case of such recovery, such prospective instalments to be recovered from an individual consumer/licensee may not be considered as 'arrears' if such instalments are paid on/within the due dates, and accordingly, the 'Voltage Rebate' and 'Load Factor'

rebates applicable in current tariff period to be allowed to such individual consumer/licensee.

Petitioner Response

4.116 DVC has submitted the instant petition for determination of ARR and Category-wise Tariff for the Period FY 2006-07 to FY 2011-12 in respect of Distribution and Retail Supply Business of Electricity for the part of Damodar Valley Area falling within the territory of the State of Jharkhand as per the directive of this Hon'ble Commission in the tariff order dated 30.09.2020. As such until and unless, any differential amount resulting between revised billing and actual payment made by consumers is fully paid or recovered in 24 equal monthly prospective installments in terms of the Order of the Hon'ble Appellate Tribunal in the judgement dated 10.05.2010 in Appeal No. 146 of 2009, DVC will treat the pending amount as dues from the consumers. As such, incentives such as Voltage Rebate, Load Factor rebates applicable in current tariff period cannot be allowed to such individual consumer/licensee. Therefore, the objector's contentions are not valid.

Views of the Commission

4.117 The Commission has considered the submissions of the Stakeholders and replies of the Petitioner.

Average Cost of Supply, Average Billing Rate and Tariff Structure

Public Comments/Suggestions

Association of DVC HT Consumers of Jharkhand

4.118 As has already been addressed in the preceding section, the Objector has explained how the exclusion of JBVNL from the ARR recoverable would lead to unjust enrichment of JBVNL and would cause severe damage to the other consumers. The same is not repeated here for the sake of brevity.

4.119 According to the Objections in the previous sections of this Objections Report, the Objector has calculated the ARR (Rs. Crores) for the period FY 2006-07 to FY 2011-12 for DVC (Jharkhand) and the corresponding Average Cost of Supply (ACoS) (Rs./kWh). As per the Objector's Assessment, the Average Cost of Supply for DVC for the years is Rs. 2.87/kWh, Rs. 2.36/kWh, Rs. 2.44/kWh, Rs. 3.04/kWh, Rs. 3.24/kWh and Rs. 3.79/kWh respectively.



- 4.120 From the data provided by the Petitioner in the instant petition, the Average Billing Rate that DVC has imposed on its consumers is Rs. 3.10/kWh, Rs. 3.05/kWh, Rs. 3.54/kWh, Rs. 3.70/kWh, Rs. 3.37/kWh and Rs. 3.83/kWh respectively. As can be observed, the ABR exceeds the ACoS for each year from FY 2006-07 to FY 2011-12, thus clearly indicating that the DVC has over-billed its consumers in Jharkhand.
- 4.121 As has been mentioned in the previous section, DVC had perused the tariff schedule and 'terms and conditions of tariff' last approved by the DVC Board and applicable with effect from September 2000 which had lost its applicability for the period from FY 2006-07 (since the enactment of Electricity Act 2003), as adjudged in the Hon'ble Supreme Court's Order dated 03.12.2018, which has upheld the Hon'ble APTEL's Order dated 10.05.2010, which in turn has upheld the Hon'ble CERC's Order dated 06.08.2009. The Existing Tariff mentioned by DVC in the above tables as per its petition are as per such tariff schedule and is violative of the Hon'ble Supreme Court's Order dated 03.12.2018, which has upheld the Hon'ble APTEL's Order dated 10.05.2010, which in turn has upheld the Hon'ble CERC's Order dated 06.08.2009.
- 4.122 For FY 2010-11 and FY 2011-12, it can be observed that the DVC has used single part tariff methodology of Rs./kWh for both Fixed as well as Energy Charges apparently at the rates stated in the tables. However, it can be observed from the ABR (Rs./kWh) that DVC has actually billed the consumers in Jharkhand at tariff rates higher than that claimed in the tables above for FY 2010-11 and FY 2011-12.
- 4.123 Thus, it is prayed that the Hon'ble Commission may kindly note that the existing tariff schedule mentioned by DVC for FY 2010-11 and FY 2011-12 in the instant petition is misleading in that it has billed its Jharkhand consumers in excess of the said tariff rates. Accordingly, it is requested that the Hon'ble Commission may consider this when determining the final tariff schedule.
- 4.124 The Electricity Act 2003, the National Tariff Policy 2006 and 2016 and the JSERC Tariff Regulations 2005, the JSERC Tariff Regulations 2007 and the JSERC Tariff Regulations 2010 envisage that the Tariff rates to be reflective of the Average Cost of Supply.



- 4.125 Thus, as can be observed, the Fixed Charges and Energy Charges proposed by DVC in the instant petition are not reflective of the Average Cost of Supply.
- 4.126 In light of the same, the Objector prays that the Hon'ble JSERC may approve Tariff, i.e. Fixed Charges and Energy Charges as per the Objector's Assessment, (which are reflective of the Average Cost of Supply) and direct DVC to revise the electricity bills and to implement refund to the consumers with applicable 6% carrying cost in terms of the APTEL Order dated 10.05.2010, accordingly.

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- 4.127 The Petitioner has claimed the average cost of supply for HV and EHV consumers and licensees excluding JBVNL. The Petitioner in its instant petition has stated that the DVC has already settled its past dues with JBVNL upto September 2015 under the UDAY scheme of the Government of India. DVC has claimed that it has already settled its dues with JBVNL and there remains no further claims of JBVNL upto September 2015.
- 4.128 The bold and underlined text in the above averments of DVC may kindly be taken note of. Apparently, what the Petitioner is trying to insinuate is that, since as part of a one-time settlement it had to waive off several items of its billed amount to JBVNL, the same may be duly taken into account by Hon'ble Commission while considering the revenue from sale of power for the previous years.
- 4.129 The above argument of DVC is completely flawed and is again made with the intent to burden the paying consumers with the defaulting cost of JBVNL. The Objector submits that in case DVC wants to treat JBVNL's revenue from sale of power as an item separate from other consumer's billed amount, the waiver given to JBVNL on account of UDAY scheme be borne by DVC and ought not be loaded on the consumers.
- 4.130 Previously, DVC has also submitted that it could not collect its 100% dues from the consumers during 2009-10 and other years since there was stay granted by judicial forums on the same. DVC also submitted that being aggrieved of the tariff order dated 06.08.2009 passed by CERC for the periods FY 2006-07 to FY 2008-09 in respect of the generating stations and T&D system of DVC an appeal having Appeal No. 146 of 2009 was filed before



APTEL. Hon'ble Tribunal pronounced the final judgement on dated 10.05.2010 on the said Appeal. It is submitted that since the said matters were under judicial proceedings, the Parties to matter were obliged to comply with the orders of such forums viz. SC/HC/Aptel/CERC/SERC. Had DVC won such cases, it would have charged the entire backlog of dues with carrying cost from all such parties to various matters. However, since the key matter i.e. Appeal No. 146/2009 for which the order was passed by Hon'ble APTEL on dated 10.05.2010 and upheld recently by the Supreme Court on dated 03.12.2018 in Civil Appeal No. 4881/2010 has been held in the favour of consumers of DVC, it is raking such frivolous objections to the revenue surplus determined earlier by Hon'ble JSERC in the Tariff Order dated 19.04.2017 and 18.05.2018. Now, with all the earlier batch of appeals decided by the Supreme Court, no dispute remains on the various items of past years.

4.131 It is humbly submitted that the Hon'ble Commission may determine the proposed tariff of HV & EHV consumers considering the average cost of supply as computed by the Objector in the above sections by including the energy sales and ARR recovered from JBVNL for the period FY 2006-07 to FY 2011-12.

Petitioner Response

4.132 For the period FY 2006-07 to FY 2009-10 and up to April 2010, DVC continued to bill its firm consumers based on the tariff as approved by DVC Board in terms of the relevant interim order of the Hon'ble Tribunal. DVC has earlier clarified this issue. Accordingly, the meters of the consumers were programmed in line with the existing tariff which was applicable at that point of time. Hence, technical data i.r.o of consumers i.e. Power Factor, Time strata, Load Factor etc. was captured and stored in DVC system in line with DVC's existing tariff structure. Accordingly, DVC has proposed the new tariff structure in line with the existing tariff structure of DVC so that smooth revision of bills can be done and the incentive i.e. power factor rebate, incentive energy charge etc. as was earlier enjoyed by individual consumers can be passed on to them individually in the proposed revised tariff, however, at a different rate due to revision of energy charge rates. BY proposing such tariff structure similar to the old and existing tariff structure, to the extent practicable for the period 2006-07 to 2009-10, DVC in no way intended to recover more than the proposed ARR from its consumers. In fact, DVC has



proposed/ designed the energy charge rate in such a fashion that keeping all other parameters (Demand charge, power factor rebate etc.) unchanged, only the proposed ARR can be recovered from the consumers. All revenue details for FY 2006-10 period based on revised bills and any other relevant data, as may be directed by the Hon'ble Commission, will be submitted by DVC at the time of true-up. It is pertinent to mention here that, from May 2010 onwards DVC tariff was not applicable, and DVC preferred bills based on single part tariff rate derived from CERC's tariff orders. Accordingly, any other technical data i.r.o of consumers except energy consumption was not captured in DVC's system. Accordingly, DVC has proposed implementation of a simple two-part Tariff consisting of only energy charge and demand charge so that the effect of load factor and power factor can be factored in while revising the earlier preferred bills of the consumers in a justified manner. DVC has only proposed that the Tariff Structure for the period 2006-07 to 2009-10 may be kept similar with the existing structure and not the tariff rate. DVC has proposed for tariff determination in the subject petition as directed by this Hon'ble Commission so that the judgment of Hon'ble Supreme Court is complied. Thus, it is not at all a violation of the Hon'ble Supreme Court's Order dated 03.12.20 18 wherein the judgment of the Hon'ble Tribunal dated 10.05.2010 has been upheld. Hon'ble WBERC has also approved the tariff for the period FY 2006-07 to FY 2008-09 vide order dtd 19.06.2020 in line with the existing tariff structure as was approved by the DVC Board Thus, the objection of the objector is misleading in nature and may summarily be rejected. Moreover, the allegation made by the objector at para 2.9.8 is totally misleading. Average Billing Rate (ABR) reflects the entire revenue as per audited annual accounts which includes adjustments related to past period also. However, existing tariff rates are related to the concerned year alone. Hence ABR and tariff rates can never be same. Neither ABR nor the existing tariff rates feature in the proposed tariff which is entirely based on the ARR submitted by DVC and consumption profile of the consumers. In Table-6 of the objection, the objector has computed energy charge rate without considering the effect of incentives and rebates proposed by DVC. Such computation leads to incorrect representation of fact and hence arbitrary in nature. Moreover, DVC submits that, in the instant case, tariff was designed for the past period (i.e. 2006-07 to 2009-10) where all the monthly consumer wise requisite data was available on actual basis. Thus, the tariff design was much simpler and recovery of the ARR through the



proposed tariff is more accurate. No superficial calculation is required as proposed by the objector as actual data is available for the instant case. If further directed by this Hon'ble Commission DVC will explain the recovery of the proposed ARR through the proposed tariff including the rebates and incentives and all requisite data as already submitted. DVC therefore prays for ignoring the submission of the objector.

Views of the Commission

4.133 The Commission has considered the submissions of the Stakeholders and replies of the Petitioner.



Chapter 5: ARR for FY 2006-07 to FY 2011-12

- 5.1 The Petitioner has submitted that the instant Petition for determination of ARR and Consumer category wise tariff schedule for consumer/licensees (except JBVNL) in respect of distribution activity of DVC in the state of Jharkhand for the period FY 2006-07 to 2011-12 and adjustment of revenue gap/surplus for the period FY 2012-13 to 2014-15 has been submitted in compliance to the directive issued in the tariff order dated 30.09.2020 passed by the Commission.
- 5.2 The Commission has carried out the Category-wise Retail Supply Tariff from FY 2006-07 to FY 2011-12 taking into consideration: -
- a) Material placed on record by the Petitioner;
 - b) Provisions of the Electricity Act, 2003;
 - c) Principles laid down in the National Electricity Policy;
 - d) Principles laid down in the Tariff Policy;
 - e) JSERC (Terms and Conditions for Distribution Tariff) Regulations, 2004;
 - f) JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2010.
 - g) Judgment of Hon'ble APTEL in Appeal No. 146 of 2010;
 - h) Judgment of Hon'ble Supreme Court in Civil Appeal No. 4881 of 2010.

Income Tax for the period FY 2006-07 to FY 2008-09

Petitioner's Submission

- 5.3 The Petitioner has submitted that During FY 2004-05 to FY 2008-09, Hon'ble CERC approved the annual fixed costs (AFC) of generating stations and transmission system without factoring in the Income Tax in the Return on Equity (ROE) part of AFC and instead allowed to recover the income tax separately.
- 5.4 Regulation 7 of the CERC (Terms and Conditions of Tariff) Regulations, 2004 is reproduced as under;

*"7. **Tax on Income:** (1) Tax on the income streams of the generating company or the transmission licensee, as the case may be, from its core business, shall be computed as an expense and shall be recovered from the beneficiaries."*



5.5 DVC has accordingly claimed the same in the instant application at actuals as per the Audited Annual Accounts for FY 2006-07 to FY 2008-09 and has apportioned the same to Jharkhand in proportion of the quantum of energy sold in the state during the respective years.

Commission's Analysis

5.6 The Petitioner did not claim any expenditure in the form of Income Tax in Petition No. Case (T) No. 02 of 2016 for Truing up for FY 2006-07 to FY 2013-14. However, in the instant petition, in line with the provisos of the CERC (Terms and Conditions of Tariff) Regulations, 2004, the Petitioner has claimed actual income tax paid amounting Rs. 243.52 Cr. for FY 2006-07, Rs. 122.87 Cr. for FY 2007-08 and Rs. 94.35 Cr. for FY 2008-09 as per the Audited Annual Accounts.

5.7 Further, vide letter no. Coml.Tariff/JSERC/231 dated 25th August 2023, the Petitioner submitted copy of the Tax Assessment order of DVC passed by the Income Tax Department under Section 143(3) of the Income Tax Act 1961 for the financial years 2006-07, 2007-08 and 2008-09 and confirmed that there is no under/ over recovery.

5.8 The Petitioner has stated that DVC is a vertically integrated organization referring to judgment passed by Hon'ble Appellate Tribunal for Electricity on 23.11.2007 subsequently upheld by the Hon'ble Supreme Court of India in the Judgment dated 23.07.2018. Accordingly, a single book of accounts is maintained for all its activities including Generation, Transmission and Distribution. As such, income tax can't be segregated between its various activities which generation, transmission and distribution as the account is also integrated. The Petitioner has submitted that no standard methodology is also available for such segregation. However, in absence of standard methodology for such segregation, the Petitioner has worked out, if required for the purpose of determination of tariff, apportion of Income Tax between different generating stations and T&D System based on Return on Equity as allowed by CERC and their respective utilization for the distribution activity.

5.9 The Commission has observed that the JSERC (Terms and Conditions for Distribution Tariff) Regulations, 2004 do not contain clause for approval of Income Tax. However, the Commission is option that Income tax is an admissible head of expense, since it has been allowed separately by the Hon'ble

CERC. Further, Hon'ble WBERC vide Order dated 19.07.2021 has also allowed the expenditure incurred due to payment of Income Tax for the Petitioner.

5.10 In this Order, the Commission has preferred to admit income tax from Return on Equity (ROE) allowed by Hon'ble CERC with required factoring on allocation of generation to DVC command area instead of income tax booked in Audited Annual Accounts.

TABLE 10: INCOME TAX FOR THE YEARS FY 2006-07 TO FY 2008-09 SUBMITTED BY THE PETITIONER AND APPROVED BY THE COMMISSION (RS. CR.)

Particulars	Petition			Approved		
	FY 07	FY 08	FY 09	FY 07	FY 08	FY 09
Surplus/(Deficit) as per Audited Annual Accounts	-	-	-	1,541.16	1,313.37	1,054.44
Income Tax as per Audited Annual Accounts	243.52	122.87	94.35	243.52	122.87	94.35
Rate of Tax as derived from Audited Annual Accounts	-	-	-	15.80%	9.36%	8.95%
RoE approved by Hon'ble CERC with factoring allocation for DVC command area	-	-	-	213.65	218.42	236.79
Admissible Income Tax	243.52	122.87	94.35	33.76	20.43	21.19

Water & Pollution Cess for the period FY 2006-07 to FY 2008-09

Petitioner's Submission

5.11 The Petitioner has submitted that Water & Pollution Cess has been claimed as per the Audited Annual Accounts, proportionate to sale in Jharkhand for respective years since it was not included in the previously approved True-up of ARR from FY 2006-07 to FY 2013-14 and APR for FY 2014-15 vide Order dated May 18, 2018

Commission's Analysis

5.12 The Commission has observed that the JSERC (Terms and Conditions for Distribution Tariff) Regulations, 2004 do not contain clause for approval of Water & Pollution Cess. However, the Commission is of the view that the Water & Pollution Cess is a legitimate Tax payment which the Petitioner has made. Further, the Petitioner has submitted Auditor's Certificate issued by Arijit Ghosh & Co. Chartered Accountants which states that figures have been computed based on Balance Sheet, Books of Accounts, Vouchers and other papers, and found correct. Accordingly, the Commission has allowed Water & Pollution Cess as shown below.



TABLE 11: WATER & POLLUTION CESS FOR THE YEARS FY 2006-07 TO FY 2008-09 SUBMITTED BY THE PETITIONER AND APPROVED BY THE COMMISSION (RS. CR.)

Particulars	Petition			Approved		
	FY 07	FY 08	FY 09	FY 07	FY 08	FY 09
Water & Pollution Cess	2.76	2.27	1.84	2.76	2.27	1.84

Rebate on sale of power for the period FY 2006-07 to FY 2011-12

Petitioner's Submission

5.13 The Petitioner has submitted that the Rebate on sale of power has been claimed as per the Audited Annual Accounts, proportionate to sale in Jharkhand for respective years since it was not included in the previously approved True-up of ARR from FY 2006-07 to FY 2013-14 and APR for FY 2014-15 vide Order dated May 18, 2018.

Commission's Analysis

5.14 The Commission has observed that the JSERC (Terms and Conditions for Distribution Tariff) Regulations, 2004 and the JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2010 do not contain clause for approval of Rebate on Sale of Power. Further, the Petitioner had not made any claim on this head in Order dated May 18, 2018. As such, the Commission has disallowed such expenses inline with the provisos of the Regulations.

TABLE 12: REBATE ON SALE OF POWER FOR THE YEARS FY 2006-07 TO FY 2011-12 SUBMITTED BY THE PETITIONER AND APPROVED BY THE COMMISSION (RS. CR.)

Particulars	Petition						Approved					
	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12
Rebate on sale of power	14.31	12.80	11.37	5.12	3.05	11.67	-	-	-	-	-	-

Interest on Temporary Financial Accommodation for the period FY 2010-11 & FY 2011-12

Petitioner's Submission

5.15 The Petitioner has submitted that the Interest on Temporary Financial Accommodation has been claimed as per the Audited Annual Accounts, proportionate to sale in Jharkhand for respective years since it was not included in the previously approved True-up of ARR from FY 2006-07 to FY 2013-14 and APR for FY 2014-15 vide Order dated May 18, 2018.



Commission's Analysis

5.16 The Commission has observed that the JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2010 do not contain clause for approval of Interest on Temporary Financial Accommodation. Further, the Petitioner had not made any claim on this head in Order dated May 18, 2018. As such, the Commission has disallowed such expenses inline with the provisos of the Regulations.

TABLE 13: INTEREST ON TEMPORARY FINANCIAL ACCOMMODATION FOR THE PERIOD FY 2010-11 & FY 2011-12 SUBMITTED BY THE PETITIONER AND APPROVED BY THE COMMISSION (RS. CR.)

Particulars	Petition		Approved	
	FY 10-11	FY 11-12	FY 10-11	FY 11-12
Interest on Temporary Financial Accommodation	54.38	125.23	-	-

Legal expenses for the period FY 2006-07 to FY 2011-12

Petitioner's Submission

5.17 The Petitioner has submitted that the Legal expenses has been claimed as per the Audited Annual Accounts, proportionate to sale in Jharkhand for respective years since it was not included in the previously approved True-up of ARR from FY 2006-07 to FY 2013-14 and APR for FY 2014-15 vide Order dated May 18, 2018.

Commission's Analysis

5.18 The Commission has observed that the JSERC (Terms and Conditions for Distribution Tariff) Regulations, 2004 and the JSERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2010 do not contain any clause for approval of Legal Expenses. Further, the Petitioner had not made any claim on this head in Order dated May 18, 2018. As such, the Commission has disallowed such expenses in line with the provisos of the Regulations.

TABLE 14: LEGAL EXPENSES FOR THE YEARS FY 2006-07 TO FY 2011-12 SUBMITTED BY THE PETITIONER AND APPROVED BY THE COMMISSION (RS. CR.)

Particulars	Petition						Approved					
	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12
Legal expenses	0.02	1.01	1.48	1.52	1.60	2.03	-	-	-	-	-	-

Non-tariff Income for the period FY 2006-07 to FY 2011-12

Commission's Analysis

5.19 The Commission has already admitted Non-tariff income through Delayed Payment Surcharge for the Petitioner vide Order dated May 18, 2018. The Commission in this Order admits Non-tariff income as per the Audited Annual Accounts which had not been admitted earlier for the years FY 2006-07 to FY 2011-12.

**TABLE 15: NON-TARIFF INCOME FOR THE YEARS FY 2006-07 TO FY 2011-12
APPROVED BY THE COMMISSION (RS. CR.)**

Particulars	Computation	Approved					
		FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Sale of Power	A	4,313.51	4,487.52	5,283.21	5,553.58	5,619.62	7,358.18
Rental Charges	B	3.01	4.43	1.71	7.30	5.02	4.88
Recovery of old dues	C	-	-	-	-	-	-
Miscellaneous	D	49.01	89.42	72.97	164.16	46.76	91.57
Dividend Income from PTC & BPSCL	E	2.35	2.35	2.35	2.35	2.55	2.85
Interest on Bonds	F	134.14	120.38	106.62	92.86	79.11	65.35
Interest on Short Term Deposit & Others	G	117.58	248.78	187.53	60.48	1.37	0.20
Share of Dams (Transferred from Part-III)	H	0.21	0.21	0.21	0.28	0.28	0.10
Share of Subsidiary Activities (Transferred from Part-IV)	I	0.08	0.08	0.09	1.41	0.23	0.25
Total Revenue	J = Sum(A:I)	4,619.88	4,953.17	5,654.69	5,882.43	5,754.94	7,523.38
Total Non-Tariff Income	K = J - A	306.36	465.65	371.48	328.85	135.33	165.20
Non-Tariff Income Less Share of Dams & Subsidiary Activities	L = K - Sum(H:I)	306.08	465.36	371.18	327.16	134.81	164.86
Delayed Payment Surcharge as per Cost Breakup of Ledger Accounts	M	7.65	12.22	24.26	1.89	7.63	28.54
Admissible Non-Tariff Income	N = L - M	298.43	453.14	346.92	325.27	127.18	136.32

Summary of ARR Components

Petitioner's Submission

5.20 The summary of ARR Components claimed by the Petitioner is shown below.

TABLE 16: SUMMARY OF ARR COMPONENTS SUBMITTED BY THE PETITIONER

Particulars	UoM	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	
Own Generation Cost	Rs. Cr.	2,523.16	2,466.62	2,601.92	3,786.35	4,189.29	5,332.87	
Power purchase cost	Rs. Cr.	35.42	84.92	82.10	753.11	600.04	555.00	
T&D Cost	Rs. Cr.	164.32	173.19	173.73	Included in own generation cost			
Pension as allowed by CERC	Rs. Cr.	628.19	628.19	628.19				
Sinking fund contribution as allowed by CERC	Rs. Cr.	40.43	30.72	27.55				
Pension for distribution activity	Rs. Cr.	1.23	1.23	1.23	0.49	0.49	0.49	
Others Costs (incl. Of Tariff filing & Pub. Exp.)	Rs. Cr.	0.25	0.25	0.33	1.12	1.17	1.38	
Income Tax	Rs. Cr.	243.52	122.87	94.35	-	-	-	
Water and Pollution Cess	Rs. Cr.	2.76	2.27	1.84	2.79	2.75	2.06	
Rebate on Sale of Power	Rs. Cr.	14.31	12.80	11.37	5.12	3.05	11.67	
Interest on Temp Financial accommodation	Rs. Cr.	-	-	-	-	54.38	125.23	
Legal Expenses	Rs. Cr.	0.02	1.01	1.48	1.52	1.60	2.03	
Total Cost	Rs. Cr.	3,653.61	3,524.08	3,624.08	4,550.51	4,852.77	6,030.73	
Less: Non-Tariff income	Rs. Cr.	7.65	12.22	24.26	1.89	7.63	28.54	
Net Cost	Rs. Cr.	3,645.96	3,511.86	3,599.82	4,548.62	4,845.14	6,002.19	
Ratio of sales in Jharkhand area to total DVC area	Rs. Cr.	62.77%	59.71%	60.00%	58.35%	59.47%	58.86%	
Allocation of cost to Jharkhand area in ratio of energy sales in Jharkhand area	Rs. Cr.	2,288.43	2,097.03	2,159.94	2,653.93	2,881.24	3,533.13	
Add: Tariff filing & Publication Expense JSERC	Rs. Cr.	0.24	0.23	0.27	0.63	0.66	0.34	
Add: Interest on working capital	Rs. Cr.	2.15	2.76	3.35	3.67	3.38	4.44	
Add: Interest on security deposit	Rs. Cr.	-	-	-	-	-	1.02	
Total ARR for Jharkhand area	Rs. Cr.	2,290.82	2,100.02	2,163.56	2,658.23	2,885.28	3,538.93	
Energy sold to consumers in Jharkhand	MU	6,761.61	7,394.85	7,740.31	8,094.00	8,549.41	8,899.12	
Energy Sold to HV & EHV Consumers & licensees excluding JBVNL	MU	4,032.52	4,379.53	4,659.63	4,908.43	5,244.73	5,438.63	
ARR recoverable from HV & EHV Consumers & licensees excluding JBVNL	Rs. Cr.	1,446.63	1,270.16	1,313.52	1,688.54	1,949.64	2,146.92	
Average cost of supply for HV & EHV consumers & licensees excluding JBVNL	Rs./kWh	3.59	2.90	2.82	3.44	3.72	3.95	

Commission's Analysis

5.21 The summary of ARR Components approved by the Commission is shown below.

TABLE 17: SUMMARY OF ARR COMPONENTS APPROVED BY THE COMMISSION

Particulars	UoM	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12
Own Generation Cost	Rs. Cr.	2,523.16	2,466.62	2,601.92	3,786.35	4,189.29	5,332.87
Power purchase cost	Rs. Cr.	35.42	84.92	82.10	753.11	600.04	555.00
T&D Cost	Rs. Cr.	164.32	173.19	173.73	Included in own generation cost		
Pension as allowed by CERC	Rs. Cr.	628.19	628.19	628.19			
Sinking fund contribution as allowed by CERC	Rs. Cr.	40.43	30.72	27.55			
Pension for distribution activity	Rs. Cr.	1.23	1.23	1.23	0.49	0.49	0.49
Others Costs (incl. Of Tariff filing & Pub. Exp.)	Rs. Cr.	0.25	0.25	0.33	1.12	1.17	1.38
Income Tax	Rs. Cr.	33.76	20.43	21.19	-	-	-
Water and Pollution Cess	Rs. Cr.	2.76	2.27	1.84	2.79	2.75	2.06
Rebate on Sale of Power	Rs. Cr.	-	-	-	-	-	-
Interest on Temp Financial accommodation	Rs. Cr.	-	-	-	-	-	-
Legal Expenses	Rs. Cr.	-	-	-	-	-	-
Total Cost	Rs. Cr.	3,429.52	3,407.82	3,538.07	4,543.86	4,793.74	5,891.80
Less: Non-Tariff income	Rs. Cr.	7.65	12.22	24.26	1.89	7.63	28.54
Less: Admissible Non-Tariff income	Rs. Cr.	298.43	453.14	346.92	325.27	127.18	136.32
Net Cost	Rs. Cr.	3,123.43	2,942.46	3,166.89	4,216.70	4,658.93	5,726.94
Ratio of sales in Jharkhand area to total DVC area	Rs. Cr.	62.77%	59.71%	60.00%	58.35%	59.47%	58.86%
Allocation of cost to Jharkhand area in ratio of energy sales in Jharkhand area	Rs. Cr.	1,960.46	1,757.03	1,900.18	2,460.27	2,770.50	3,371.11
Add: Tariff filing & Publication Expense JSERC	Rs. Cr.	0.24	0.23	0.27	0.63	0.66	0.34
Add: Interest on working capital	Rs. Cr.	2.15	2.76	3.35	3.67	3.38	4.44
Add: Interest on security deposit	Rs. Cr.	-	-	-	-	-	1.02
Total ARR for Jharkhand area	Rs. Cr.	1,962.85	1,760.02	1,903.80	2,464.57	2,774.54	3,376.91
Energy sold to consumers in Jharkhand	MU	6,761.61	7,394.85	7,740.31	8,094.00	8,549.41	8,899.12
Energy Sold to HV & EHV Consumers & licensees excluding JBVNL	MU	4,032.52	4,379.53	4,659.63	4,908.43	5,244.73	5,438.63
ARR recoverable from HV & EHV Consumers & licensees excluding JBVNL	Rs. Cr.	1,170.61	1,042.35	1,146.08	1,494.59	1,702.07	2,063.77
Average cost of supply for HV & EHV consumers & licensees excluding JBVNL	Rs./kWh	2.90	2.38	2.46	3.04	3.25	3.79



Chapter 6: Category-wise Retail Supply Tariff for FY 2006-07 to FY 2011-12

Petitioner's Submission

6.1 The Petitioner has submitted the Category-wise Tariff for the period FY 2006-07 to FY 2011-12 as tabulated below:

TABLE 18: CATEGORY-WISE TARIFF FOR FY 2006-07 AS SUBMITTED BY THE PETITIONER

Particulars	Existing Tariff (FY 2006-07)		Proposed Tariff (FY 2006-07)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33kV)	2.37	365.00	2.78	365.00
Industries (132kV)	2.27	365.00	2.78	365.00
Traction (132kV)	2.43	365.00	2.78	365.00

TABLE 19: CATEGORY-WISE TARIFF FOR FY 2007-08 AS SUBMITTED BY THE PETITIONER

Particulars	Existing Tariff (FY 2007-08)		Proposed Tariff (FY 2007-08)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33kV)	2.41	365.00	2.09	365.00
Industries (132kV)	2.34	365.00	2.09	365.00
Traction (132kV)	2.45	365.00	2.09	365.00

TABLE 20: CATEGORY-WISE TARIFF FOR FY 2008-09 AS SUBMITTED BY THE PETITIONER

Particulars	Existing Tariff (FY 2008-09)		Proposed Tariff (FY 2008-09)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33kV)	2.43	365.00	2.01	365.00
Industries (132kV)	2.35	365.00	2.01	365.00
Traction (132kV)	2.45	365.00	2.01	365.00

TABLE 21: CATEGORY-WISE TARIFF FOR FY 2009-10 AS SUBMITTED BY THE PETITIONER

Particulars	Existing Tariff (FY 2009-10)		Proposed Tariff (FY 2009-10)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs./kVA/Month)	(Rs./kWh)	(Rs./kVA/Month)
Industries (33kV)	2.98	365.00	2.66	365.00
Industries (132kV)	2.90	365.00	2.66	365.00
Traction (132kV)	2.96	365.00	2.66	365.00

TABLE 22: CATEGORY-WISE TARIFF FOR FY 2010-11 AS SUBMITTED BY THE PETITIONER

Particulars	Existing Tariff (FY 2010-11)		Proposed Tariff (FY 2010-11)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs./kWh)	(Rs./kWh)	(Rs./kVA/Month)
Industries (33kV)	1.96	1.05	3.03	365.00
Industries (132kV)	1.95	1.05	3.03	365.00
Traction (132kV)	1.96	1.11	3.03	365.00

TABLE 23: CATEGORY-WISE TARIFF FOR FY 2011-12 AS SUBMITTED BY THE PETITIONER

Particulars	Existing Tariff (FY 2011-12)		Proposed Tariff (FY 2011-12)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs./kWh)	(Rs./kWh)	(Rs./kVA/Month)
Industries (33kV)	2.11	1.57	3.16	365.00
Industries (132kV)	2.12	1.57	3.16	365.00
Traction (132kV)	2.10	1.61	3.16	365.00
Industries (220kV)	2.22	1.71	3.16	365.00

Commission's Analysis

6.2 The Commission has approved the Category-wise Tariff for the period FY 2006-07 to FY 2011-12 as tabulated below:

TABLE 24: CATEGORY-WISE TARIFF FOR FY 2006-07 AS APPROVED BY THE COMMISSION

Particulars	Existing Tariff (FY 2006-07)		Proposed Tariff (FY 2006-07)		Approved Tariff (FY 2006-07)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs./kVA/Month)	(Rs./kWh)	(Rs./kVA/Month)	(Rs./kWh)	(Rs./kVA/Month)
Industries (33kV)	2.37	365.00	2.78	365.00	2.02	365.00
Industries (132kV)	2.27	365.00	2.78	365.00	2.02	365.00



Particulars	Existing Tariff (FY 2006-07)		Proposed Tariff (FY 2006-07)		Approved Tariff (FY 2006-07)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)
Traction (132kV)	2.43	365.00	2.78	365.00	2.02	365.00

TABLE 25: CATEGORY-WISE TARIFF FOR FY 2007-08 AS APPROVED BY THE COMMISSION

Particulars	Existing Tariff (FY 2007-08)		Proposed Tariff (FY 2007-08)		Approved Tariff (FY 2007-08)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33kV)	2.41	365.00	2.09	365.00	1.51	365.00
Industries (132kV)	2.34	365.00	2.09	365.00	1.51	365.00
Traction (132kV)	2.45	365.00	2.09	365.00	1.51	365.00

TABLE 26: CATEGORY-WISE TARIFF FOR FY 2008-09 AS APPROVED BY THE COMMISSION

Particulars	Existing Tariff (FY 2008-09)		Proposed Tariff (FY 2008-09)		Approved Tariff (FY 2008-09)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33kV)	2.43	365.00	2.01	365.00	1.59	365.00
Industries (132kV)	2.35	365.00	2.01	365.00	1.59	365.00
Traction (132kV)	2.45	365.00	2.01	365.00	1.59	365.00

TABLE 27: CATEGORY-WISE TARIFF FOR FY 2009-10 AS APPROVED BY THE COMMISSION

Particulars	Existing Tariff (FY 2009-10)		Proposed Tariff (FY 2009-10)		Approved Tariff (FY 2009-10)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33kV)	2.98	365.00	2.66	365.00	2.19	365.00
Industries (132kV)	2.90	365.00	2.66	365.00	2.19	365.00
Traction (132kV)	2.96	365.00	2.66	365.00	2.19	365.00

TABLE 28: CATEGORY-WISE TARIFF FOR FY 2010-11 AS APPROVED BY THE COMMISSION

Particulars	Existing Tariff (FY 2010-11)		Proposed Tariff (FY 2010-11)		Approved Tariff (FY 2010-11)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs./kWh)	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33kV)	1.96	1.05	3.03	365.00	2.49	365.00
Industries (132kV)	1.95	1.05	3.03	365.00	2.49	365.00
Traction (132kV)	1.96	1.11	3.03	365.00	2.49	365.00



**TABLE 29: CATEGORY-WISE TARIFF FOR FY 2011-12 AS APPROVED BY THE
COMMISSION**

Particulars	Existing Tariff (FY 2011-12)		Proposed Tariff (FY 2011-12)		Approved Tariff (FY 2011-12)	
	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges	Energy Charges	Fixed/Demand Charges
	(Rs./kWh)	(Rs./kWh)	(Rs./kWh)	(Rs/kVA/Month)	(Rs./kWh)	(Rs/kVA/Month)
Industries (33kV)	2.11	1.57	3.16	365.00	2.94	365.00
Industries (132kV)	2.12	1.57	3.16	365.00	2.94	365.00
Traction (132kV)	2.10	1.61	3.16	365.00	2.94	365.00
Industries (220kV)	2.22	1.71	3.16	365.00	2.94	365.00



Chapter 7: Expected Revenue from Tariff for FY 2006-07 to FY 2011-12

Petitioner's Submission

7.1 The Petitioner has submitted the Expected Revenue from Tariff for the Period FY 2006-07 to FY 2011-12 as tabulated below:

TABLE 30: EXPECTED REVENUE FROM TARIFF FOR FY 2006-07 AS SUBMITTED BY THE PETITIONER

Particulars	No. of consumers	Consumption (MU)	Connected Load (MVA)	Energy Charge (Rs./kWh)	Fixed Charges (Rs/kVA/Month)	Demand Charges (Rs. Cr.)	Variable Charges (Rs. Cr.)	Rebates (Rs. Cr.)	Total Billed Amt (Rs. Cr.)	ABR (Rs./kWh)
Industries (33kV)	66	2345.90	471.71	2.78	365.00	186.94	644.75	1.12	830.56	3.54
Industries (132kV)	4	1317.75	285.25	2.78	365.00	112.81	347.75	0.92	459.65	3.49
Traction (132kV)	9	368.87	146.00	2.78	365.00	59.23	97.34	0.15	156.42	4.24
Total	79	4032.52	902.96	-	-	358.98	1089.84	2.19	1446.63	3.59

TABLE 31: EXPECTED REVENUE FROM TARIFF FOR FY 2007-08 AS SUBMITTED BY THE PETITIONER

Particulars	No. of consumers	Consumption (MU)	Connected Load (MVA)	Energy Charge (Rs./kWh)	Fixed Charges (Rs/kVA/Month)	Demand Charges (Rs. Cr.)	Variable Charges (Rs. Cr.)	Rebates (Rs. Cr.)	Total Billed Amt (Rs. Cr.)	ABR (Rs./kWh)
Industries (33kV)	75	2658.76	482.24	2.09	365.00	207.33	548.73	1.80	754.27	2.84
Industries (132kV)	5	1339.44	290.25	2.09	365.00	115.12	263.48	1.18	377.42	2.82
Traction (132kV)	9	381.33	146.50	2.09	365.00	63.13	75.56	0.21	138.48	3.63
Total	89	4379.53	918.99	-	-	385.58	887.77	3.19	1270.16	2.90

TABLE 32: EXPECTED REVENUE FROM TARIFF FOR FY 2008-09 AS SUBMITTED BY THE PETITIONER

Particulars	No. of consumers	Consumption (MU)	Connected Load (MVA)	Energy Charge (Rs./kWh)	Fixed Charges (Rs/kVA/Month)	Demand Charges (Rs. Cr.)	Variable Charges (Rs. Cr.)	Rebates (Rs. Cr.)	Total Billed Amt (Rs. Cr.)	ABR (Rs./kWh)
Industries (33kV)	83	2734.15	504.07	2.01	365.00	214.88	543.52	1.89	756.51	2.77
Industries (132kV)	5	1519.27	347.75	2.01	365.00	125.50	288.21	1.26	412.45	2.71



Damodar Valley Corporation (DVC) Category-wise Retail Supply Tariff from FY 2006-07 to FY 2011-12

Particulars	No. of consumers	Consumption (MU)	Connected Load (MVA)	Energy Charge (Rs./kWh)	Fixed Charges (Rs/kVA/Month)	Demand Charges (Rs. Cr.)	Variable Charges (Rs. Cr.)	Rebates (Rs. Cr.)	Total Billed Amt (Rs. Cr.)	ABR (Rs./kWh)
Traction (132kV)	9	406.21	152.00	2.01	365.00	67.31	77.50	0.25	144.56	3.56
Total	97	4659.63	1003.82	-	-	407.70	909.23	3.40	1313.52	2.82

TABLE 33: EXPECTED REVENUE FROM TARIFF FOR FY 2009-10 AS SUBMITTED BY THE PETITIONER

Particulars	No. of consumers	Consumption (MU)	Connected Load (MVA)	Energy Charge (Rs./kWh)	Fixed Charges (Rs/kVA/Month)	Demand Charges (Rs. Cr.)	Variable Charges (Rs. Cr.)	Rebates (Rs. Cr.)	Total Billed Amt (Rs. Cr.)	ABR (Rs./kWh)
Industries (33kV)	88	2914.42	517.98	2.66	365.00	232.35	767.74	1.44	998.65	3.43
Industries (132kV)	5	1560.95	360.25	2.66	365.00	122.82	392.71	1.01	514.53	3.30
Traction (132kV)	9	433.06	152.00	2.66	365.00	66.32	109.27	0.22	175.37	4.05
Total	102	4908.43	1030.23	-	-	421.49	1269.72	2.67	1688.54	3.44

TABLE 34: EXPECTED REVENUE FROM TARIFF FOR FY 2010-11 AS SUBMITTED BY THE PETITIONER

Particulars	No. of consumers	Consumption (MU)	Connected Load (MVA)	Energy Charge (Rs./kWh)	Fixed Charges (Rs/kVA/Month)	Demand Charges (Rs. Cr.)	Variable Charges (Rs. Cr.)	Rebates (Rs. Cr.)	Total Billed Amt (Rs. Cr.)	ABR (Rs./kWh)
Industries (33kV)	96	2885.69	554.16	3.03	365.00	218.78	874.18	10.82	1082.13	3.75
Industries (132kV)	5	1900.08	365.25	3.03	365.00	138.55	546.82	6.79	678.58	3.57
Traction (132kV)	9	458.96	153.00	3.03	365.00	58.73	132.08	1.89	188.92	4.12
Total	110	5244.73	1072.41	-	-	416.05	1553.08	19.50	1949.64	3.72

TABLE 35: EXPECTED REVENUE FROM TARIFF FOR FY 2011-12 AS SUBMITTED BY THE PETITIONER

Particulars	No. of consumers	Consumption (MU)	Connected Load (MVA)	Energy Charge (Rs./kWh)	Fixed Charges (Rs/kVA/Month)	Demand Charges (Rs. Cr.)	Variable Charges (Rs. Cr.)	Rebates (Rs. Cr.)	Total Billed Amt (Rs. Cr.)	ABR (Rs./kWh)
Industries (33kV)	95	2993.20	568.41	3.16	365.00	282.24	945.93	12.16	1216.01	4.06
Industries (132kV)	6	1955.53	390.09	3.16	365.00	141.74	594.09	7.29	728.54	3.73
Traction (132kV)	9	476.50	153.16	3.16	365.00	62.57	136.07	1.97	196.67	4.13
Industries (220kV)	1	13.40	11.00	3.16	365.00	1.74	4.02	0.06	5.70	4.26
Total	111	5438.63	1122.66	-	-	488.29	1680.10	21.47	2146.92	3.95



Damodar Valley Corporation (DVC) Category-wise Retail Supply Tariff from FY 2006-07 to FY 2011-12

Commission's Analysis

7.2 Based on the data/ information available before the Commission, the approved Expected Revenue from Tariff for the Period FY 2006-07 to FY 2011-12 is as tabulated below:

TABLE 36: EXPECTED REVENUE FROM TARIFF FOR FY 2006-07 AS APPROVED BY THE COMMISSION

Particulars	No. of consumers	Consumption (MU)	Connected Load (MVA)	Energy Charge (Rs./kWh)	Fixed Charges (Rs/kVA/Month)	Demand Charges (Rs. Cr.)	Variable Charges (Rs. Cr.)	Rebates (Rs. Cr.)	Total Billed Amt (Rs. Cr.)	ABR (Rs./kWh)
Industries (33KV)	66	2,345.90	471.71	2.02	365.00	186.94	473.44	1.12	659.25	2.81
Industries (132KV)	4	1,317.75	285.25	2.02	365.00	112.81	265.94	0.92	377.84	2.87
Traction (132KV)	9	368.87	146.00	2.02	365.00	59.23	74.44	0.15	133.52	3.62
Total	79	4,032.52	902.96	-	-	358.98	813.82	2.19	1,170.61	2.90

TABLE 37: EXPECTED REVENUE FROM TARIFF FOR FY 2007-08 AS APPROVED BY THE COMMISSION

Particulars	No. of consumers	Consumption (MU)	Connected Load (MVA)	Energy Charge (Rs./kWh)	Fixed Charges (Rs/kVA/Month)	Demand Charges (Rs. Cr.)	Variable Charges (Rs. Cr.)	Rebates (Rs. Cr.)	Total Billed Amt (Rs. Cr.)	ABR (Rs./kWh)
Industries (33KV)	75	2,658.76	482.24	1.51	365.00	207.33	400.65	1.80	606.19	2.28
Industries (132KV)	5	1,339.44	290.25	1.51	365.00	115.12	201.84	1.18	315.79	2.36
Traction (132KV)	9	381.33	146.50	1.51	365.00	63.13	57.46	0.21	120.38	3.16
Total	89	4,379.53	918.99	-	-	385.58	659.96	3.19	1,042.35	2.38

TABLE 38: EXPECTED REVENUE FROM TARIFF FOR FY 2008-09 AS APPROVED BY THE COMMISSION

Particulars	No. of consumers	Consumption (MU)	Connected Load (MVA)	Energy Charge (Rs./kWh)	Fixed Charges (Rs/kVA/Month)	Demand Charges (Rs. Cr.)	Variable Charges (Rs. Cr.)	Rebates (Rs. Cr.)	Total Billed Amt (Rs. Cr.)	ABR (Rs./kWh)
Industries (33KV)	83	2,734.15	504.07	1.59	365.00	214.88	435.26	1.89	648.25	2.37
Industries (132KV)	5	1,519.27	347.75	1.59	365.00	125.50	241.86	1.26	366.10	2.41
Traction (132KV)	9	406.21	152.00	1.59	365.00	67.31	64.67	0.25	131.73	3.24
Total	97	4,659.63	1,003.82	-	-	407.70	741.79	3.40	1,146.08	2.46

Damodar Valley Corporation (DVC) Category-wise Retail Supply Tariff from FY 2006-07 to FY 2011-12

TABLE 39: EXPECTED REVENUE FROM TARIFF FOR FY 2009-10 AS APPROVED BY THE COMMISSION

Particulars	No. of consumers	Consumption (MU)	Connected Load (MVA)	Energy Charge (Rs./kWh)	Fixed Charges (Rs/kVA/Month)	Demand Charges (Rs. Cr.)	Variable Charges (Rs. Cr.)	Rebates (Rs. Cr.)	Total Billed Amt (Rs. Cr.)	ABR (Rs./kWh)
Industries (33KV)	88	2,914.42	517.98	2.19	365.00	232.35	638.75	1.44	869.65	2.98
Industries (132KV)	5	1,560.95	360.25	2.19	365.00	122.82	342.11	1.01	463.92	2.97
Traction (132KV)	9	433.06	152.00	2.19	365.00	66.32	94.91	0.22	161.01	3.72
Total	102	4,908.43	1,030.23	-	-	421.49	1,075.77	2.67	1,494.59	3.04

TABLE 40: EXPECTED REVENUE FROM TARIFF FOR FY 2010-11 AS APPROVED BY THE COMMISSION

Particulars	No. of consumers	Consumption (MU)	Connected Load (MVA)	Energy Charge (Rs./kWh)	Fixed Charges (Rs/kVA/Month)	Demand Charges (Rs. Cr.)	Variable Charges (Rs. Cr.)	Rebates (Rs. Cr.)	Total Billed Amt (Rs. Cr.)	ABR (Rs./kWh)
Industries (33KV)	96	2,885.69	554.16	2.49	365.00	218.78	718.30	10.82	926.26	3.21
Industries (132KV)	5	1,900.08	365.25	2.49	365.00	138.55	472.97	6.79	604.73	3.18
Traction (132KV)	9	458.96	153.00	2.49	365.00	58.73	114.24	1.89	171.08	3.73
Total	110	5,244.73	1,072.41	-	-	416.05	1,305.51	19.50	1,702.07	3.25

TABLE 41: EXPECTED REVENUE FROM TARIFF FOR FY 2011-12 AS APPROVED BY THE COMMISSION

Particulars	No. of consumers	Consumption (MU)	Connected Load (MVA)	Energy Charge (Rs./kWh)	Fixed Charges (Rs/kVA/Month)	Demand Charges (Rs. Cr.)	Variable Charges (Rs. Cr.)	Rebates (Rs. Cr.)	Total Billed Amt (Rs. Cr.)	ABR (Rs./kWh)
Industries (33KV)	95	2,993.20	568.41	2.94	365.00	282.24	878.90	12.16	1,148.98	3.84
Industries (132KV)	6	1,955.53	390.09	2.94	365.00	141.74	574.21	7.29	708.66	3.62
Traction (132KV)	9	476.50	153.16	2.94	365.00	62.57	139.92	1.97	200.52	4.21
Industries (220KV)	1	13.40	11.00	2.94	365.00	1.74	3.93	0.06	5.61	4.19
Total	111	5,438.63	1,122.66	-	-	488.29	1,596.95	21.47	2,063.77	3.79



Chapter 8: Gap/(Surplus) and its Treatment

Commission's Analysis

8.1 The Commission has computed the Expected Revenue from Sale of Power in Jharkhand area at the approved Tariff in **Chapter 7** of this Order. For the calculation of Carrying Cost on Surplus, the Commission has considered the Rate of Interest as short-term Prime Lending Rate of State Bank of India as on 1st April for the respective year. In accordance with the above, the Commission has approved the cumulative gap/(surplus) from FY 2006-07 to FY 2011-12 as summarised below.

TABLE 42: GAP/(SURPLUS) FROM EXPECTED REVENUE FROM SALE OF POWER AS APPROVED BY THE COMMISSION

Particulars	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Revenue Realized	1,265.95	1,439.88	1,899.45	2,036.52	1,956.25	2,035.44
Expected Revenue from Sale of Power at approved Tariff	1,170.61	1,042.35	1,146.08	1,494.59	1,702.07	2,063.77
Opening (Surplus)	-	100.22	534.38	1,399.36	2,145.90	2,667.15
(Surplus) during the year	95.34	397.53	753.37	541.93	254.18	(28.33)
Closing (Surplus)	95.34	497.75	1,287.75	1,941.29	2,400.08	2,638.82
Average (Surplus)	47.67	298.99	911.06	1,670.32	2,272.99	2,652.99
Interest Rate (%)	10.25%	12.25%	12.25%	12.25%	11.75%	13.00%
Carrying Cost	4.89	36.63	111.61	204.61	267.08	344.89
Closing (Surplus) with Carrying Cost	100.22	534.38	1,399.36	2,145.90	2,667.15	2,983.71

8.2 The Petitioner is directed to report the **principle amount to be refunded** post implementation of the instant Tariff Order, in terms of per the APTEL Order dated 10.05.2010, which has been upheld by the Hon'ble Supreme Court vide its Order dated 03.12.2018, within **15 days** of issual of this Order, so that further action may be taken.



Chapter 9: Tariff Schedule

Applicable from 01.04.2006

Ceiling Tariff

The Tariffs approved below are Ceiling Tariffs and the Licensee is at liberty to Supply at lower and more competitive rates based on the requirement of the Consumers. However, this reduced recovery shall be attributable to the Licensee and shall not be recoverable in the ARR.

High Tension (HT) Industries at 33 kV

Applicability: Applicable for consumers connected at 33 kV.

Service Character: 50 Cycles, 3 Phase at 33 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
HTS (33kV)	Rs./kVA/month	365.00	2.02

High Tension (HT) Industries at 132 kV

Applicability: Applicable for consumers connected at 132 kV.

Service Character: 50 Cycles, 3 Phase at 132 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
HTS (132kV)	Rs./kVA/month	365.00	2.02

Traction Services at 132 kV

Applicability: Applicable for use of railway traction connected at 132 kV.

Service Character: 50 Cycles, 3 Phase at 132 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
Traction	Rs./kVA/month	365.00	2.02



Applicable from 01.04.2007

Ceiling Tariff

The Tariffs approved below are Ceiling Tariffs and the Licensee is at liberty to Supply at lower and more competitive rates based on the requirement of the Consumers. However, this reduced recovery shall be attributable to the Licensee and shall not be recoverable in the ARR.

High Tension (HT) Industries at 33 kV

Applicability: Applicable for consumers connected at 33 kV.

Service Character: 50 Cycles, 3 Phase at 33 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
HTS (33kV)	Rs./kVA/month	365.00	1.51

High Tension (HT) Industries at 132 kV

Applicability: Applicable for consumers connected at 132 kV.

Service Character: 50 Cycles, 3 Phase at 132 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
HTS (132kV)	Rs./kVA/month	365.00	1.51

Traction Services at 132 kV

Applicability: Applicable for use of railway traction connected at 132 kV.

Service Character: 50 Cycles, 3 Phase at 132 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
Traction	Rs./kVA/month	365.00	1.51



Applicable from 01.04.2008

Ceiling Tariff

The Tariffs approved below are Ceiling Tariffs and the Licensee is at liberty to Supply at lower and more competitive rates based on the requirement of the Consumers. However, this reduced recovery shall be attributable to the Licensee and shall not be recoverable in the ARR.

High Tension (HT) Industries at 33 kV

Applicability: Applicable for consumers connected at 33 kV.

Service Character: 50 Cycles, 3 Phase at 33 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
HTS (33kV)	Rs./kVA/month	365.00	1.59

High Tension (HT) Industries at 132 kV

Applicability: Applicable for consumers connected at 132 kV.

Service Character: 50 Cycles, 3 Phase at 132 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
HTS (132kV)	Rs./kVA/month	365.00	1.59

Traction Services at 132 kV

Applicability: Applicable for use of railway traction connected at 132 kV.

Service Character: 50 Cycles, 3 Phase at 132 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
Traction	Rs./kVA/month	365.00	1.59



Applicable from 01.04.2009

Ceiling Tariff

The Tariffs approved below are Ceiling Tariffs and the Licensee is at liberty to Supply at lower and more competitive rates based on the requirement of the Consumers. However, this reduced recovery shall be attributable to the Licensee and shall not be recoverable in the ARR.

High Tension (HT) Industries at 33 kV

Applicability: Applicable for consumers connected at 33 kV.

Service Character: 50 Cycles, 3 Phase at 33 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
HTS (33kV)	Rs./kVA/month	365.00	2.19

High Tension (HT) Industries at 132 kV

Applicability: Applicable for consumers connected at 132 kV.

Service Character: 50 Cycles, 3 Phase at 132 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
HTS (132kV)	Rs./kVA/month	365.00	2.19

Traction Services at 132 kV

Applicability: Applicable for use of railway traction connected at 132 kV.

Service Character: 50 Cycles, 3 Phase at 132 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
Traction	Rs./kVA/month	365.00	2.19



Applicable from 01.04.2010

Ceiling Tariff

The Tariffs approved below are Ceiling Tariffs and the Licensee is at liberty to Supply at lower and more competitive rates based on the requirement of the Consumers. However, this reduced recovery shall be attributable to the Licensee and shall not be recoverable in the ARR.

High Tension (HT) Industries at 33 kV

Applicability: Applicable for consumers connected at 33 kV.

Service Character: 50 Cycles, 3 Phase at 33 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
HTS (33kV)	Rs./kVA/month	365.00	2.49

High Tension (HT) Industries at 132 kV

Applicability: Applicable for consumers connected at 132 kV.

Service Character: 50 Cycles, 3 Phase at 132 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
HTS (132kV)	Rs./kVA/month	365.00	2.49

Traction Services at 132 kV

Applicability: Applicable for use of railway traction connected at 132 kV.

Service Character: 50 Cycles, 3 Phase at 132 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
Traction	Rs./kVA/month	365.00	2.49



Applicable from 01.04.2011

Ceiling Tariff

The Tariffs approved below are Ceiling Tariffs and the Licensee is at liberty to Supply at lower and more competitive rates based on the requirement of the Consumers. However, this reduced recovery shall be attributable to the Licensee and shall not be recoverable in the ARR.

High Tension (HT) Industries at 33 kV

Applicability: Applicable for consumers connected at 33 kV.

Service Character: 50 Cycles, 3 Phase at 33 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
HTS (33kV)	Rs./kVA/month	365.00	2.94

High Tension (HT) Industries at 132 kV

Applicability: Applicable for consumers connected at 132 kV.

Service Character: 50 Cycles, 3 Phase at 132 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
HTS (132kV)	Rs./kVA/month	365.00	2.94

High Tension (HT) Industries at 220 kV

Applicability: Applicable for consumers connected at 220 kV.

Service Character: 50 Cycles, 3 Phase at 220 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
HTS (220kV)	Rs./kVA/month	365.00	2.94

Traction Services at 132 kV

Applicability: Applicable for use of railway traction connected at 132 kV.

Service Character: 50 Cycles, 3 Phase at 132 kV

Tariff:

Category	Fixed Charges		Energy Charges (Rs./kWh)
	Unit	Rate	
Traction	Rs./kVA/month	365.00	2.94



Chapter 9: Terms & Conditions of Supply

- 9.1 The demand charge shall be applicable to different categories of consumers as per rate given in **Chapter 8** of this Order. Demand Charge shall be 75% of the contract demand or actual recorded demand, whichever will be higher. Further, No Penal Demand Charge for maximum demand exceeding contract demand shall be levied.
- 9.2 In case a consumer got connection during a particular month, computation of fixed charge or demand charge for that consumer for that month shall be made pro-rata.
- 9.3 Any incentive as per incentive scheme effective from 01.09.2000 as prevalent at that time shall be given to the eligible consumers.
- 9.4 Power factor rebate/surcharge shall be applicable at the rate and conditions as prevalent at that time.
- 9.5 Any other concessions on drawal during off peak hours etc. shall be applicable as per the same rate and conditions as prevalent at that time.
- 9.6 DVC realized Fuel Cost Surcharge (FCS) as per prevailing formula and notified by DVC from time to time in addition to energy charge and demand charge in their monthly bills. Such FCS shall not be applicable as the Fuel Price Adjustment (FPA) has been considered in generation cost as submitted by DVC.
- 9.7 For High voltage consumers at 132/220 KV a reduction of 5% on energy charge and demand charge was given over the tariff for 33 KV consumers. Those reductions shall be given to 132 and 220 KV consumers on energy charge and demand charge determined by the Commission.
- 9.8 All existing charges relating to meter rent, meter testing, meter replacement, disconnection and reconnection etc. shall continue.
- 9.9 For all consumers, timely payment rebate shall be given at the rate and on the same condition as prevalent at that time.
- 9.10 Delayed payment surcharge shall be applicable as per prevalent rate at that time.



- 9.11 All statutory levies like electricity duty or any other taxes, duties etc. imposed by the State Govt. or Central Govt. or any other competent authority shall be extra and shall not be a part of the tariff determined under this tariff order.
- 9.12 All rates and conditions of tariff are effective for the period from April, 2006 to March 2012.
- 9.13 Any matter, which has not been explicitly mentioned in this order, shall be guided by applicable Tariff Regulations.
- 9.14 DVC shall revise the monthly electricity bills of its licenses & HT Consumers for electricity consumption during April 06 to Mar 12 including other charges (viz. Load Factor Rebate, Voltage Rebate, etc.) and refund the net excess amount billed and collected or recover the net deficit amount along with simple interest rate of 6.00% per annum in line with Section 62 (6) of the Electricity Act, 2003, as per the APTEL Order dated 10.05.2010 which has been upheld by the Hon'ble Supreme Court vide its Order dated 03.12.2018.



Chapter 10: Directives

Reporting of calculated Surplus post implementation of instant Tariff Order

10.1 The Petitioner is directed to report the **principle amount to be refunded** post implementation of the instant Tariff Order, in terms of the APTEL Order dated 10.05.2010, which has been upheld by the Hon'ble Supreme Court vide its Order dated 03.12.2018, within **15 days** of issual of this Order, so that further action may be taken.

This Order is signed and issued by the Jharkhand State Electricity Regulatory Commission on October 31, 2023.

Date: 31.10.2023

Place: Ranchi

Sd/-	Sd/-	Sd/-
Atul Kumar	Mahendra Prasad	Justice Amitav Kr. Gupta
MEMBER (Technical)	MEMBER (Legal)	CHAIRPERSON



ANNEXURE - I

List of participating members in the Public Hearing

Sl. No	Name	Address/Organization
Place: Hazaribag, Date: July 19, 2023		
1.	Mr. Subrata Ghosal	Damodar Valley Corporation
2.	Ms. Gargi Srivastava	Advocate, Association of DVC HT Consumers
3.	Ms. Daisy Hannah	Advocate, Association of DVC HT Consumers
4.	Mr. Pramod Agarwal	Association of DVC HT Consumers
5.	Mr. Dhananjay Kumar	Maihar Alloys Pvt. Ltd.
6.	Mr. Mazhar Khan	Maihar Alloys Pvt. Ltd.
7.	Mr. Amit Kumar Sil	GM, TSC, Hazaribag, Damodar Valley Corporation
8.	Mr. Anup Sharma	Damodar Valley Corporation
9.	Mr. Samrat Bhowmik	Damodar Valley Corporation
10.	Mr. Vashwar Banerjee	Damodar Valley Corporation
11.	Mr. Satish Kumar	Damodar Valley Corporation
12.	Mr. Debshankar Ghosh	Damodar Valley Corporation
13.	Mr. Chandan Kumar	Damodar Valley Corporation
14.	Mr. Sunil Kumar	Sachiv Zila Grammen Vikas Samiti, Hazaribag
15.	Mr. Bateshwar Mehta	Hazaribag
16.	Mr. Dhaneshwar Kumar	Hazaribag
17.	Mr. Ashok Kumar	Hazaribag
Place: Dhanbad, Date: July 21, 2023		
18.	Mr. Subir Kr. Das	Damodar Valley Corporation
19.	Mr. D. P. Bar	Damodar Valley Corporation
20.	Mr. Sharad Pandey	Bharat News 24
21.	Mr. Raja Haider	Bharat News 24
22.	Mr. Vikram Singh	R 24 Bharat, Dhanbad
23.	Mr. Amar Kumar	Mirror Media, Dhanbad
24.	Mr. Munna Kumar	News 22 Scope, Dhanbad
25.	Mr. Amit Kumar	Hind Live, Dhanbad
26.	Mr. Jitendra Kumar	News 11, Dhanbad
27.	Mr. Rushamveer Singh	Hindustan Paper
28.	Mr. Shravan Kumar	Dainik Bhaskar
29.	Mr. Kumar Madhurendra Singh	Social Worker
30.	Mr. Shivendra Kumar	JBVNL, Dhanbad
31.	Mr. Vinay Kumar	Damodar Valley Corporation
32.	Mr. D. Tripathi	Damodar Valley Corporation
33.	Mr. Anup Sharma	Damodar Valley Corporation
34.	Mr. Samrat Bhowmik	Damodar Valley Corporation
35.	Mr. Kailash Chandra Gosav	Dhanbad Zila Flour Mills Association
36.	Mr. Sunil Agarwal	Dhanbad Zila Flour Mills Association
37.	Mr. Swapnil Kolwadkar	Idam Infra
38.	Mr. S. K. Kashyap	JBVNL, Dhanbad
39.	Mr. Sanjay Kr. Singh	SAIL-BSL
40.	Mr. Sanjay Kumar	SAIL-BSL
41.	Mr. Ramesh Chandra	SAIL-BSL
42.	Mr. M. S. Chakraborty	Damodar Valley Corporation
43.	Mr. Raushan Kumar	Idam Infra
44.	Mr. Anant Sant	Idam Infra
45.	Mr. Debshankar Ghosh	Damodar Valley Corporation
46.	Mr. Vashwar Banerjee	Damodar Valley Corporation
47.	Mr. Satish Kumar	Damodar Valley Corporation
48.	Mr. Chandan Kumar	Damodar Valley Corporation
49.	Mr. Subrata Ghosal	Damodar Valley Corporation
50.	Mr. Pramod Kumar	Damodar Valley Corporation