MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

1st Floor (Front Block Left Wing), New Administrative Building
Lower Lachumiere, Shillong – 793 001
East Khasi Hills District, Meghalaya

Case No: 3/2019

In the matter of Petition for Review of True up Orders for FY 2016-17.

AND

Meghalaya Power Distribution Corporation Limited (the Petitioner)

Coram

Shri. P.W. Ingty, IAS (Retd), Chairman
Shri. Roland Keishing, Member (Law)

ORDER

(Dated: 31.03 .2021)

1. The MePDCL is a deemed Licensee in terms of Section 14 of the Electricity Act 2003 (Here in after referred as Act)
2. The Commission has passed the order dated 18.11.2019 for true up of ARR of FY 2016-17, the second year of MYT control period for FY 2015-16 to FY 2017-18.
3. As per Regulation 22 of MSERC Regulation 2014 MePDCL has filed petition for Review of True up order for FY 2016-17.
4. In exercise of functions vested in MSERC (here in after referred the Commission) the MYT Regulation 2014, Commission issues this review order for the FY 2016-17.
5. Regulation 22 of MYT Regulation 2014 specifies that the Commission shall under take the review of True up of the business considering the terms & Conditions laid down there in.
6. Commission taking into consideration of all the facts, audited SOA and Prudence check as per the Regulations, passed review order for the FY 2016-17.
7. Commission notifies the licensee that the impact of review order if any shall be appropriated in the ARR of the ensuing year for determination of Tariff.

Sd/-	**Sd/-**
Shri. Roland Keishing	**Shri. P.W. Ingty, IAS (Retd.)**
(Member)	**(Chairman)**

Review Petition on True Up Order dated 18.11.2019:

1 Introduction

Petitioner's Submission

1.1. The present petition is being filed as per clause 22 of MSERC (Multi Year Tariff) Regulations 2014, which is reproduced below:

22 Review of Tariff Order

22.1 All applications for the review of tariff shall be in the form of petition accompanied by the prescribed fee. A petition for review of tariff can be admitted by the Commission under the following conditions:

a) the review petition is filed within sixty days for the date of the tariff order, and / or

b) there is an error apparent on the face of the record

22.2 On being satisfied that there is a need to review the tariff of any generating company or the licensee, the Commission may on its own initiate process of review of the tariff of any generating company or the licensee. The Commission may also, in its own motion review any tariff order to correct any clerical error or any error apparent of the face of the record.

1.2. The present petition is also being filed as per clause 21 of MSERC (Conduct of Business) Regulations 2006, which is reproduced below:

"A person aggrieved by a decision or order of the Commission from which no appeal is preferred, or is not allowed to be preferred, can seek a review of the order if new and important facts which, after the exercise of due diligence, were not within his knowledge or could not be produced by him at the time when the order was passed or on account of some mistake or error apparent on the face of record or for any other sufficient reason, by making an application within 60 days of the date of the order."

1.3. As such, the MSERC (Multi Year Tariff) Regulations 2014 provides for the petitioner or any other person aggrieved by an order of the Commission to file a review petition based on new facts and information, which was not considered during the time of issue of order or on account of apparent errors or mistakes. MePDCL, in this petition is requesting the Commission to review certain costs which were disallowed in view of the latest facts and information submitted in this petition or in view of apparent errors observed.

1.4. Further, as per the above clauses, the timeline specified by MSERC for submission of review petition is within 60 days of the date of the order of the Commission**.** MePDCL would like to submit that it is filing the review petition within the allowed timeline and as such, the Commission is requested to admit the same

Commission's Analysis:

Commission considers that the licensee has filed petition for Review of True up orders for FY 2016-17 passed by the commission on 18.11.2019 as per the Regulation 22.1 (a) is within 60 days from the date of order.

Commission considers there is no error apparent on the face of the record.

Commission considers that there is no need to review the tariff as claimed by the licensee for the true up orders of FY 2016-17 dated 18.11.2019.

Commission considers that the true up orders for FY 2016-17 dated 18.11.2019 were passed as per the Regulation 11.1 to 11.5 of the MYT Regulations 2014 considering the audited SOA, report of C&AG and admissible expenses have been allowed after prudence check.

Commission finds that there are no new and important facts disclosed in the review petition, which necessitates the commission to relook into the claims of the licensee, since, the true up orders for FY 2016-17 are compiled and admissible expenses as per the Regulations were considered with reference to the audited accounts.

However commission would like to analyse the claims of the licensee with reference to the Regulations and audited accounts.

2 Review of True Up of MePDCL for FY 2016-17

Petitioner's Submission

The grounds of review are provided below point wise against the respective components of ARR.

2.1 Power purchase cost

Petitioner's Submission

The Commission in its True Up order dated 18 November 2019, has considered Rs 548.10 as the total power purchase cost for MePDCL. The following are the observations of the Licensee on the methodology and calculations used by the Commission for Power Purchase Cost along with suitable explanations to justify the costs as claimed in true up:

a) The Commission has admitted the costs of NTPC plants (excluding Bongaigoan) as Rs 0.38 Cr but inadvertently not included the same costs in the final calculation in Table 8 of the order leading to an under recovery of power purchase costs.

b) The Commission has not considered the surcharge amount paid by the Licensee for the different stations of NEEPCO, NTPC, NHPC and OTPC.

c) The Commission has reduced the power purchase costs of Licensee by the rebate factor of 1%. It is submitted that there is no provision in MSERC Tariff Regulations 2014 regarding reduction of rebate amount from power purchase cost and the Commission has also not practiced the same in previous orders. In fact, clauses 85.3 and 85.4 of MSERC Tariff Regulations 2014, clearly state that the power purchase cost shall be worked out based on the tariff notified by the respective Commission. It is to be noted that in this case the tariff rates approved by the Commission have been reduced by the factor of 1% rebate, which is only provided in case of prompt payment of power purchase amount i.e when the payment is made by the discom before the due date. Moreover, the accounting of expenses is also done on accrual basis which implies that the power purchase cost is booked on the basis of the amount billed and not amount paid (which may or may not be rebate). It is noteworthy that the Commission does not allow delayed payment surcharge which is incurred by the discom for late payment of power purchase bills. In the same manner, the rebate also should not have been considered and the actual figures as per audited accounts should have been considered. Moreover, for payment of power purchase invoices and claiming on rebate on the same, MePDCL would need to borrow additional working capital from the market which would lead to an increase in interest on working capital. It may be noted that the Commission has ignored the effect of increase in working capital requirement for claiming rebate on power purchase invoices. The relevant clauses are produced below,

"85.3 The cost of power purchased from the central generating companies shall be worked out based on the tariff determination by the Central Electricity Regulatory Commission (CERC).

85.4 Where power is purchased by the licensee from State-owned existing generating stations, the cost of power purchase shall be worked out based on the price determined by the State Commission."

d) The Commission has considered power purchase cost from MePGCL to be Rs. 199.85 Cr, while the approved revenue of MePGCL in the Generation True Up Order for FY 2016-17 as well as audited figures in accounts of MePGCL is Rs. 236.97 Cr. Thus, there is a contradiction between the allowed power purchased cost from MePGCL and the revenue of MePGCL from its operation, which should be the same. Thus, the power purchase costs from MePGCL to be considered is Rs 236.97 Cr (Note 21 of the MePDCL Audited Accounts).

Based on the above submissions, the Licensee requests the Commission to consider the whole of Power Purchase costs excluding the surcharge amount. The surcharge amount paid by MePDCL in FY 2016-17 is Rs 56.84 Cr (Note 21 of the MePDCL Audited Accounts). The invoices for the same have already been shared with the Commission as **Annexure E in the true up Petition for FY 2016-17**. The total power purchase costs claimed by the Licensee in the true up petition in line with audited accounts was Rs 653.15 Cr.

Thus, the Licensee requests the Commission to allow an additional amount Rs 48.21 Cr as shown in table below:

Table 1: Additional Power Purchased Cost Claimed in Review

SL. No.	Particulars	Amount in INR Cr.
1	Power Purchase Charges claimed by MePDCL in the True Up petition	653.15
2	Power Purchase Charges allowed by MSERC in the True Up order	548.10
3	Power Purchase Charges claimed by MePDCL in the review (not claiming the surcharge amount)	596.31
4	**Additional Power Purchase Charges to be allowed in the review petition (=3-2)**	**48.21**

Commission's Analysis:

a) Rebate

Regulation 36.1- "*For payment of bills of generation tariff or transmission charges through Letter of Credit or otherwise, within 7 days of presentation of bills, by the Generating Company or the Transmission Licensee, as the case may be, a rebate of 2% on billed amount, excluding the taxes, cess, duties, etc., shall be allowed. Where payments are made subsequently through opening of Letter of Credit or otherwise, but within a period of one month of presentation of bills by the Generating Company or the Transmission Licensee, as the case may be, a rebate of 1% on billed amount, excluding the taxes, cess, duties, etc., shall be allowed.*"

Commission had allowed power purchase cost of NTPC for Rs.104.02 Crore after deducting 1% rebate for prompt payment excluding LPSC as per Regulation 36 of MYT Regulations 2014. Commission has also considered Rs.0.38 Crore arrear claim for the period 2010 to 2014 vide invoice no.08 & 12 totaling to Rs.104.40 Crores for True up of FY 2016-17.

The licensee was allowed interest on working capital in the ARR in order to discharge the power purchase liability timely. The licensee has recovered from the consumers the interest on working capital computed for determination of tariff.

Commission considers that failure to discharge the liability, the incentive allowed by the generators for prompt payment within 30 days of the bill would be lost, which shall be given credit to the stake holders/the consumers.

b) Regulation 37.1-"*In case the payment of bills of generation tariff or transmission charges by the beneficiary or beneficiaries is delayed beyond a period of 30 days from the date of billing, late payment surcharge at the rate of 1.25% per month on billed amount shall be levied for the period of delay by the Generating Company or the Transmission Licensee, as the case may be*".

The licensee was allowed interest on working capital in the ARR in order to discharge the power purchase liability timely. The licensee has recovered from the consumers the interest on working capital computed for determination of tariff.

Commission considers that failure to discharge the liability of the power purchase cost timely, the avoidable expense towards delay payment surcharge need not be considered for tariff, in view of the fact that the licensee was allowed interest on working capital in the ARR to meet the contingency of discharge of the all statutory liabilities including power purchase cost.

c) Licensee shall refer to the Regulation 36 of MSERC Regulations 2014 as clarified at (a) above.

Commission had considered the power purchase cost as claimed by the generators with reference to the tariff determined by the CERC in respect of the central generating stations.

The power purchase cost in respect of state owned generating stations has been allowed at the approved rates by the MSERC for the FY 2016-17.

d) The power purchase cost claimed by the MePGCL at Rs.201.87 Crores has been allowed after deducting 1% rebate, as already clarified at (a) above for true up of FY 2016-17.

Commission considers that there is no need to review the power purchase cost allowed in the true up orders dated 18.11.2019, in view of the Regulatory implications detailed above after prudence check.

2.2 Energy Balance & Sale of Power to Assam

Petitioner's Submission

The Commission in its True Up order has considered the sale of power to Assam as power sold outside the state and because of the same has reduced the ARR by Rs. 2.73 Cr (the treatment of sale of power to Assam and outside state sale leads to overstatement of surplus power and revenue from sale of surplus power).

This is in contradiction to the earlier orders including ARR and MYT order for FY 2015-16 to FY 2017-18 where the Commission has considered power sold to Assam within the state. The calculations of average cost of supply, average revenue to be realized per unit as well as tariff revision in FY 2016-17 tariff order was done considering sale of power to Assam as inside state sale. Moreover, the average billing rate used in Table 38 of this true up order is computed using power sold to Assam as power within the state. The Commission itself has also considered units sold to Assam as power within the state (EHT Category) in Table 4 of the order.

Fundamentally the sale of power to Assam is similar to sale of power to a consumer within the state at 33/11 kV level. The sale of power to Assam cannot be treated as interstate sale as the power supply to Assam is through the intra state network of Meghalaya and not through an interface point of state network with the interstate network. Because of geographical and topographical constraints, the power supply happens electrically within the state network although the power is going geographically to an area outside state.

Moreover, if power sold to Assam is considered interstate sale of power, then Assam would have the right to claim withdrawal from grid and accordingly NERPC or NERLDC would have to revise the entitlement, deviation etc.

Based on the above submissions, the Licensee in line with earlier orders of Commissions is requesting the Commission to consider the sale of power to Assam as within the state sale. Hence, the Licensee requests the Commission to nullify the amount of Rs 2.73 Cr done for the adjustment for sale of power to Assam.

Commission's Analysis

Licensee shall refer to table no. 26 of the True up orders wherein the energy sales within the state was approved at 954.63 MU and sales to Assam has been separately shown for energy balance analysis.

Regulation 81.7 specifies that *"Sale of electricity, if any, to electricity traders or other licensees or persons shall be separately indicated. Sale of electricity, if any, outside the licensee's area shall be indicated separately in accordance with an agreement executed for this purpose.*"

The Format D2 (A) of MSERC Regulations 2011 indicates, to work out AT&C loss % only for the sales within the state. Commission considers the sales to Assam as outside the state.

The claim of the licensee that, commission has computed for average billing rate using power sold to Assam as power within the state is not true. The revenue from existing tariffs for the sales to Assam for arriving at average rate of tariff was indicated in the tariff order for FY 2016-17 as projected by the licensee in their petition.

The licensee had never at any time indicated the sales to Assam as within the state, nor submitted the copy of agreement between the consumer and the licensee for computation of the T&D loss trajectory and the tariffs to be collected from Assam. The licensee had reported the revenue income from operations vide note no. 17 of audited accounts, as interstate sale of power to Assam and amount billed at Rs.15.01 Crore at an average rate of Rs.8.46/Kwh.

The licensee shall take appropriate action for the grid implications with NERPC or NERLDC in respect of entitlement, deviation etc.

In view of the facts and Regulatory implications, commission does not consider review of the claim of licensee.

2.3 Return on Equity

Petitioner's Submission

The Commission has calculated the return on equity on the average asset base of MePDCL. The following are the observations of the Licensee on the methodology used by the Commission for Return on Equity along with suitable explanations to justify the costs as claimed in true up:

a) The Commission in its calculation has not considered the assets of MeECL (apportioned portion) in calculation of total asset base for Return on Equity calculations and thus understating the return on equity.

b) The Commission has reduced the asset base by grants amount of Rs 82.48 Cr as per Note 9.6 and 11 of the audited accounts. However, the Commission has inadvertently not considered the fact that the grant appearing in books of accounts can be a part of either gross fixed asset or capital works in progress. Considering the whole of grants to be part of asset is not apt. This methodology has led to undermining the net asset base and in turn return of equity.

c) The issue of Return on Equity (methodology of MeECL& its subsidiaries vs methodology of MSERC: APTEL Case no 46 of 2016) is still under subjudice. The Utility is reiterating the fact that the approved value of the Commission for Return on Equity is not in line with the Regulations. For sake of brevity, MePDCL is not reiterating the grounds and the justification for the claim here since the matter is already under subjudice.

Hence based on above, the additional claim of Utility for review is given below:

Table 2: Return on Equity Claimed in Review

Sr. No.	Particulars	Amount in INR Cr.
1	Return on Equity claimed by MePDCL in the True Up petition (1)	113.54
2	Return on Equity allowed by MSERC in the True Up order (2)	10.99
3	**Additional Return on Equity to be allowed in the review petition (=1-2)**	**102.55**

Commission's Analysis

The Regulation 31.1 of the MSERC (MYT) Regulations, 2014 specify *"**Return on Equity shall be computed on the equity base determined in accordance with Regulation 27 and shall not exceed 14%"**. Regulation 27.1 specifies that actual equity shall be considered at 30% of the capital cost and equity in excess of 30% shall be treated as normative loan.*

Conjoint reading of Regulations 31.1 and 27.1 explicitly specify that Return on Equity shall be considered at 30% of the project cost (Original Cost of Fixed Assets).

Provided any grant obtained for execution of the project shall not be considered as a part of capital structure for the purpose of debt equity ratio.

The MeECL is not a business centre, the OCFA were not employed in generating the revenue for MeECL and no liability towards ROE is payable by the MeECL.

Commission does not consider assets of the MeECL for the purpose of ROE of MePDCL for FY 2016-17.

Regulation 31.1 read with 27.1 clearly specifies that,

"Provided any grant obtained for execution of the project shall not be considered as a part of capital structure for the purpose of debt equity ratio."

Commission does not consider the grant part and excluded from capital cost of MePDCL for computation of ROE for true up of FY 2016-17.

In accordance with the Regulation the amount of grants at Rs.82.48 Crore as per Note no.9.6 and 11 has been excluded from the capital structure for computation of Return on equity.

Licensee has stated that the methodology of MSERC for computation of ROE is still under subjudice in APTEL case no.46 of 2016, commission does not consider the claim in the review petition.

In view of the Regulatory implications stated above, commission considers that there is no need to review the Return on Equity already approved in the true up orders for FY 2016-17.

2.4 Interest and Finance charges

Petitioner's Submission

The Commission in its True Up order has approved Interest and Finance Charges at Rs. 8.46 Cr against the licensee's claim for Interest and Finance Charges of Rs. 42.52 Cr for FY 2016-17. The Commission has considered REC Restructured loans, PFC RAPDRP Part A and Part B loans for computation of interest on loan. However, the Commission has not considered the vehicles loans, MTL-I & II loans drawn from REC for Power Purchase for interest charges calculations.

The Commission has inadvertently not considered the state government loans as well as loans from holding company without giving any reason for the same. The breakup of State Govt loans which was submitted along with True Up petition is being attached as Annexure A for reference. The revised interest on loan due to addition of the above-mentioned loans is given below:

Table 3: Revised Claim for Interest on Loan

(In Rs Cr)

Particulars	Open Bal	Interest Rate	Additions	Rep. Due	Cl. Bal	Interest
a) 8% restructured REC loan	42.68	8.00%		4.72	37.96	3.23
b) 9% PFC loan R-APDRP-A	10.19	9.00%			10.19	0.92
c) 9% PFC loan R-APDRP-B	47.92	9.00%			47.92	4.31
d) State Govt Loans *	3.81	9.31%	0.13		3.95	0.36
e)11.75% Loan MeECL-Holding Company *		11.75%	118.42		118.42	4.67**
Total	104.60		118.55	4.72	218.43	13.49

***Details of Opening and Closing Balance is as per Note 10 of the audited accounts**

**** As per Note 23 Finance Costs of MePDCL Accounts**

Further, the Commission has also not taken into account the other finance charges, without providing any reason. These charges are actual charges which are incurred on account of financial transactions with banks and financial institutions like guarantee charges, loan raising charges, other transaction charges etc whose details as per the audited SoA (Note 23) is given below:

Table 4 : Other Finance Charges

(In Rs Cr)

Particulars	FY 2016-17
Cost of raising finance	0.65
Other banking and guarantee charges	3.63
Total Other Finance Charges	**4.28**

The Commission has also not taken into account interest and finance charges of MeECL i.e the apportioned portion (amount of Rs 3.47 Cr) in calculation of total interest and finance charges of MePDCL. Based on the above submissions, net interest and finance charges claimed by the licensee in the review is Rs 21.23 Cr as given in the table below:

Table 5 : Interest and Finance Charges Claimed in Review

(In Rs Cr)

Particulars	FY 2016-17
Interest on Loan	13.49
Other Finance Charges	4.28
MeECL Interest Charges Apportioned	3.47
Total Interest and Finance Charges	**21.23**

The Commission is requested to allow an additional amount of Rs 12.77 Cr for Interest and Finance charges as shown in the table below:

Table 6 : Interest& Finance Charges Based on Revised Components

Sr. No.	Particulars	Amount in INR Cr.
1	Interest and Finance Charges claimed by MePDCL in the True Up petition	42.52
2	Interest and Finance Charges allowed by MSERC in the True Up order	8.46
3	Interest and Finance Charges claimed by MePDCL in the review	21.23
4	Additional Interest and Finance Charges to be allowed in the review petition (=3-2)	12.77

Commission's Analysis

Regulation 32.1- *Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of loan repayment, terms and conditions of loan agreements, bond or debenture and the lending rate specified therein.*

Provided that the outstanding loan capital shall be adjusted to make it consistent with the loan amount determined in accordance with regulation 27.

Regulation 32.2- *The interest and finance charges attributable to capital work in progress shall be excluded.*

Provided that neither penal interest nor overdue interest shall be allowed for computation of tariff.

The Regulation clearly specifies that, loans obtained for capital works only need be considered for interest payment. The licensee has borrowed loan for purchase of vehicles and MTL I&II from REC for power purchase which is a Revenue expenditure, therefore commission does not consider interest on the above loans.

Licensee has not stated the purpose for which the loans were drawn from the State Govt and MeECL (The Holding Company) in the note 10 of the audited accounts.

The holding corporation is not a financial institution, and the sanctity of the MeECL lending money to its subsidiary utility is not disclosed, and the copy of the loan agreement not made available as required in the Regulation 32.1.

The functions of MeECL (the holding company) has been assigned, vide transfer scheme to oversee the activities of the electricity Generation, Transmission and Distribution in the state of Meghalaya. The Holding Corporation is not a business centre dealing with the above GTD activities. The borrowing functions are vested with the respective corporations.

The licensee has not drawn any fresh loans for capital investment, the cost of raising finance or other banking and guarantee charges shall not be considered for determination of tariff.

As already stated above, MeECL (the holding company) is not a business centre dealing with the Revenue generating activities, the interest claim of MeECL shall not be considered for determination of Tariff of MePDCL.

In view of the Regulatory implications stated above, commission does not consider the review of interest and finance charges already approved in the true up orders for FY 2016-17 dated 18.11.2019.

2.5 Non Tariff and Other Income

Petitioner's Submission

The Commission in its True Up order has approved Non-Tariff & Other Income at Rs. 88.57 Cr for FY 2016-17. The Commission has inadvertently considered Rs 5.58 Cr as apportioned other income from MeECL. However, the total other income as MeECL audited accounts is Rs 11.92 Cr (Note 15 of MeECL accounts) and thus the other income of MeECL apportioned in MePDCL should be Rs 3.97 Cr (Rs 11.92/3). This has led to overstatement of other income for the licensee by an amount of Rs 1.61 Cr.

Based on the above submission, the Commission is requested to review the Non-tariff & Other income amount, as shown in the table below:

Table 7: Non-Tariff Income & Other Income Based on Revised Components

Sr. No.	Particulars	Amount in INR Cr.
1	Non-tariff & Other Income allowed by MSERC in the True Up Order	88.57
2	Non-tariff & Other Income claimed by MePDCL in the Review petition(Considering MeECL income apportioned as Rs 3.97 Cr instead of Rs 5.58 Cr)	86.96
3	**Non-tariff & Other Income to be allowed in the review petition (=2-1)**	**(1.61)**

Commission's Analysis

The audited SOA of MeECL disclosed other income vide note no.15 at Rs.11.93 Crores which includes Rs.9.19 Crores on behalf of MePDCL, MePGCL & MePTCL in their respective shares and remaining other income distributed equally and apportioned to the other income of the subsidiary utilities as detailed below

Table 8 : Statement of MeECL other income distributed among MePDCL, MePGCL & MePTCL for FY 2016-17

(Rs.Cr)

1	MeECL Total Other income	11.93	**1/3rd MeECL Other Income Apportioned**	
2	MePDCL Rs.4.67 Cr		0.91	5.58
3	MePGCL Rs.2.31 Cr		0.92	3.23
4	MePTCL Rs.2.21 Cr		0.91	3.12
	Less: (2+3+4)	9.19	2.74	11.93
5	Balance Other Income distributed equally	2.74		

Licensee has calculated the other income as Rs.11.93 Crore / 3 = Rs.3.98 Crore.

Commission calculated the other income at Rs.5.58 Crore as detailed in above table. The Non tariff income and other income of MePDCL is considered at Rs.82.99 Crores as reported vide note no. 17 and 19 of audited SOA, considering the Rs.5.58 Crore as Other Income analyzed above the total other income is arrived at Rs.88.57 Crores. Thus difference of Rs.1.61 Crore resulted due to distribution of other income in their respective share as detailed in the above table.

2.6 Depreciation

Petitioner's Submission

The Commission in its True Up order has considered Rs 10.15 Cr as depreciation for MePDCL. The following are the observations of the Licensee on the methodology and calculations used by the Commission for depreciation along with suitable explanations to justify the costs as claimed in true up:

a) MePDCL has used the asset- wise breakup as per the audited accounts and their corresponding rates for computation of depreciation in the true up petition. The methodology used is in line with the MSERC Regulations. When there is asset- wise breakup along with corresponding rates of depreciation in the audited accounts **(Note 1 of accounts)**, the approach of Commission to use of average depreciation rate on the total asset for MePDCL without any basis/reasoning is not justified.

   At the same time, the Commission has rightly considered the depreciation of MeECL as Rs 0.21 Cr as the apportioned portion (Table 22 of order). This is line with the total depreciation of Rs 0.64 Cr in the audited accounts of MeECL. The same depreciation has been arrived at asset- wise breakup as per the audited accounts and their corresponding rates for computation of depreciation (Note 1 of MeECL accounts). There seems to be dichotomy to the approach followed for calculation of depreciation for MePDCL (avg depreciation rate on total asset) and MeECL (different depreciation rate for different class of assets).

b) The Commission seems to have inadvertently used the average depreciation rate of only 4.38% (there is no justification how it arrived at the rate). It seems the average rate is low (as compared to the depreciation rate of 5.28%

for lines and cables which has the highest share among the asset categories considering the nature of the company). The rate is also different from the average depreciation rate of 4.72% used in the true up FY 2015-16 order for discom.

c) The effect of amortization of grants is already taken as a separate head in ARR and approved by MSERC in the order. Considering it again in the calculation of depreciation (i.e reducing the net GFA by grants amount) will lead to double accounting and undermine the ARR.

d) While it is true that as per the clause 33 of the regulations that depreciation shall be allowed up to 90% of the cost of the asset, this does not imply that the rate of depreciation is to be multiplied on 90 % of cost for asset category, instead of 100% of the depreciable asset. The Commission has inadvertently calculated depreciation rate on 90 % of the average assets instead of whole 100% of the asset, thereby undermining the depreciation amount.

e) The Commission has considered grants amount of Rs 82.48 Cr and reduced the total asset by the same amount to arrive at depreciable GFA. However, the grants contribution appearing in accounts (Note 11) can either be a part of asset (already put into use) or part of capital works in progress. Considering the whole of grant as a part of GFA seems to an inadvertent error from the Commission, thereby undermining the depreciation amount approved. Moreover, the grants appearing vide **note 9.6** which has been considered by Commission for depreciation calculation, has been converted to equity and under equity pending allotment head (Note 9 of accounts). Thus, the same amount of Rs 1.20 Cr cannot be considered a part of grants.

Based on the above submission, the Commission is requested to consider the depreciation amount as claimed in the true up petition and allow an additional amount Rs 5.13 Cr as shown in the table below:

Table 9 : Depreciation Amount Claimed in Review

Sr. No.	Particulars	Amount in INR Cr.
1	Depreciation Amount claimed by MePDCL in the True Up petition (1)	15.28
2	Depreciation Amount allowed by MSERC in the True Up order (2)	10.15
3	**Additional Depreciation to be allowed in the review petition (=1-2)**	**5.13**

Commission's Analysis

As per Regulation 33.1 (c), "*the salvage value of the assets shall be considered at 10% and depreciation allowed up to maximum of 90% of the capital cost of the asset at the rates indicated by the CERC vide annexure to CERC Regulations 2009 and depreciation shall be chargeable on prorate basis for the assets added for part of the year. Consumer contribution or capital subsidy/ grant etc shall be excluded from the asset value for the purpose of depreciation as per Regulation 33.1 (a).*"

a) Commission had computed the depreciation considering the 90% of average asset value of opening and closing balance as reported in note no.1 of audited SOA for FY 2016-17 which is consistent with the above Regulation.

   Commission had followed the methodology for computation of depreciation at the rates communicated by the CERC vide annexure to CERC Regulations 2009.

   As already stated in the interest and finance charges and ROE, the MeECL is not a business center, the depreciation charges on the assets of the MeECL need not be considered for depreciation claim of MePDCL which will be an excess of the Regulatory allowance for retail tariffs of MePDCL. The Depreciation charges of MeECL at Rs.0.21 Crore was added inadvertently is now withdrawn.

Table 10: Depreciation Approved for FY 2016-17 (Review)

(Rs.Cr)

Particulars	Approved in True up order dated.18.11.2019	MePDCL Claimed for Review	Approved for FY 2016-17 Review
Depreciation	10.15	15.28	9.94

b) The average rate of Depreciation is arrived at based on the depreciation computed at the rates notified by the CERC on average 90% of the asset value as per the Regulation 33.1 (c). The difference in percentage rate of Average depreciation was on account of the nature of asset and quantity held.

c) The Licensee has reported amortization of grant and subsidies at Rs.4.78 Crore as other income vide note no.19 of audited accounts is netted off the ARR. The note no.24, Depreciation and amortization expense does not disclose the amortization grants used to meet the depreciation expense. The claim of the licensee as double accounting of the grants is not true.

d) Depreciation computed is in line with Regulation 33 and rate of Depreciation has been computed to arrive at the percentage depreciation to be deducted out of the grants for determination of tariff.

e) The claim of the licensee that, part of the grants can be capital works in progress, the deduction of whole of the grant from the depreciable GFA, seems to be an inadvertent error by the commission, is not maintainable.

   Regulation 33 specifies that *Consumer contribution or capital subsidy/ grant etc shall be excluded from the asset value for the purpose of depreciation as per Regulation 33.1 (a).*

   Note 9.6 of SOA disclose the grant contributed by the government for construction of 33 KV line and substation at Prahari Nagar under SPA, and improvement of power supply in Dadenggre area, West Garo Hills was under NEC is specific as capital grant, the deduction of the capital grants from the asset value is in line with the Regulation.

It is mandatory that the Licensee shall maintain Regulatory accounts and submit to the commission along with petition for determination of tariff and for True up as per the Regulation 4.2 (c) of MYT Regulations 2014.

In view of the Regulatory implications stated above, commission considers that there is no need to review the Depreciation already approved in the true up orders for FY 2016-17.

2.7 AT&C Calculation Penalty on AT&C

Petitioner's Submission

The Commission in its True Up order dated 18 November 2019, approved AT&C Loss of 47.98% and AT&C Loss penalty of Rs 59.35 Cr. The following are the observations of the Licensee on the methodology and calculations used by the Commission for AT&C Loss head:

a) The Commission has cited absence of schedule of receivables in Note 26 (b) and has calculated collection efficiency of 82.33% and in turn AT&C Loss of 47.98% using the available data in accounts. There is a discrepancy in closing value of receivables of claimed by Licensee vis-à-vis approved due to unavailability of the figure in the audited accounts. It is submitted that the licensee was not given an opportunity to submit the missing data of receivables in audited accounts. However, now, closing balance of receivables for FY 2016-17 can be seen in FY 2017-18 accounts as opening value of receivables for FY 2017-18. The audit of FY 2017-18 is complete and the accounts along with statutory report is attached as annexure B. The opening value of receivables for FY 2017-18 is Rs 318.21 Cr (Note 5 (a).3- Gross Trade Receivables head of FY 2017-18 accounts). The same is also the closing value of receivables for FY 2016-17. The opening value of receivables for FY 2016-17 is Rs 270.20 Cr i.e closing value of receivables for FY 2015-16 in line with the approach of the Commission in the true up order (Table 37 of the order).

The Commission has arrived at revenue from sale of power within the state for FY 2016-17 at Rs 527.82 Cr against the claim of Rs 542.82 Cr. The difference is due to consideration of Assam sale as outside sale by the Commission. This is in contradiction to the earlier orders including ARR and MYT order for FY 2015-16 to FY 2017-18 where the Commission has considered power sold to Assam within the state**(mentioned in Chapter 2.2 of the petition).** The licensee requests the Commission to consider sale of power to Assam as sale within the state in line with its approach in the earlier orders and in turn consider the revenue of sale of power within the state at Rs 542.82 Cr (in line with the audited accounts)

Based on the above submissions, the Licensee is requesting the Commission to revise the closing value of receivables, revenue from sale of power in state and in turn AT&C Loss as shown in the table below:

Table 11 : Revised AT&C Loss Calculation Claimed in Review

Particulars (MePDCL)	**Amount**
Opening balance of receivables from sale of power within the state	270.20
Revenue from sale of power within the state in FY 2016-17	542.82
Total	813.02
Less: Closing balance of receivables from sale of power within the state	318.21
Revenue realized in FY 2016-17 from sale of power within the state	**494.81**
Collection Efficiency	**91.16%**
T&D losses (Table 37 of the order)	**36.81%**
AT&C Losses for FY 2016-17	**42.40%**

b) Based on the revision of AT&C loss as filed above in the petition, the revised penalty amount for AT&C Loss levels is Rs 26.65 Cr as shown in the table below:

Table 12 : Penalty for AT&C Loss Levels Claimed in Review

S.No	Particulars (MePDCL)	Amount
1	Actual AT&C loss for FY 2015-16	41.00%
2	Target level for FY 2016-17	38.00%
3	Actual AT&C loss for FY 2016-17 as filed in review	42.40%
4	Short fall over the Targeted Level	4.40%
5	Total AT&C loss for FY 2016-17 MU (972.38 x 9.98%)**	42.77
6	Average billing rate of Revenue for FY 2016-17 (Rs/Unit)	6.23
7	**Penalty to be levied on the short fall (42.77 MUx6.23)**	**26.65**

**The licensee has considered Assam power sale as sale within the state, thus the total consumption within the state as filed in true up petition is 972.38 MUs

Based on the above submissions, the Licensee requests the Commission to revise the penalty for AT&C Loss as shown in the table below:

Table 13 : Additional Penalty Amount for AT&C Loss Levels Claimed in Review

Sr. No.	Particulars	Amount in INR Cr.
1	AT&C Loss Penalty allowed by MSERC in the True Up order (2)	59.35
2	Revised AT&C Loss Penalty claimed by Licensee in Review Petition	26.65
3	**Additional AT&C Loss Penalty to be allowed in the review petition (=2-1)**	**(32.70)**

Commission's Analysis

a) Commission had compiled data for AT&C loss performance as stipulated in the Format D 2 (A) of MSERC Regulations 2011, and efficiency of the licensee has been computed with reference to performance reported through audited accounts and penalty to be levied has been worked out, in line with the Regulation 83 for true up orders dated 18.11.2019.

Commission had considered the data audited by the statutory auditors and certified by the C&AG for computation of the performance of the licensee in the table no.37 is relevant for FY 2016-17. Considering the un-audited opening balance of receivables for FY 2017-18 shall not be acceptable for computation of AT&C loss performance for FY 2016-17.

The note no.17 of audited SOA for FY 2016-17 disclose the Revenue billed for the sales within the state at Rs.527.82 Crore which need to be considered for computation of efficiency of the licensee as per the Regulations. The claim of the licensee that the sales to Assam shall be considered as sales within the state cannot be accepted.

b) The AT&C loss penalty has been computed as per the performance data of audited SOA is in line with the Regulations, the claim of the licensee to revise the AT&C loss penalty shall not be considered for review of true up order.

In view of the Regulatory implications stated above, commission considers that there is no need to review the AT&C loss penalty already approved in the true up orders for FY 2016-17.

2.8 Interest on Working Capital

Petitioner's Submission

Based on the above submissions for review, the interest on working capital has been computed in line with the existing MSERC Regulations as given below:

Table 14: Interest on Working Capital Based on Revised Components

(In Rs Cr)

Particulars	Amount
O&M for 1 Months (INR Crore) (Rs 156.81/12)	13.07
Maintenance spares at 1% of GFA Historical cost escalated by 6% (Opening Asset of MePDCL +1/3 Opening Asset of MeECL) *1%*1.06	3.71
Receivables for 2 Months (INR Crore) (1123.21-86.96-22.50-4.78-50.82-26.65)/6	155.25
Total (INR Crore)	172.03
Interest Rate (%)	14.05%
Interest on Working Capital (INR Crore)	**24.17**

There also seems to be clerical error in the computation of the O&M Expenses for one (1) month component in the calculations on the Commission (Table 26 of the order). The total O&M expenses as approved by the Commission amounts to Rs 156.81 Cr as against Rs 151.83 used in the calculation of interest on working capital. Moreover, the Commission has inadvertently not considered the assets of MeECL (apportioned portion) in calculation of total asset base for maintenance spares component.

Based on the above submissions, the petitioner now humbly requests Commission to allow additional amount of INR 9.53 Cr. for Interest on Working Capital as shown in the table below:

Table 15 : Additional Claim for Interest on Working Capital

Sr. No.	Particulars	Amount in INR Cr.
1	Interest on Working Capital allowed by MSERC	14.64
2	Interest on Working Capital claimed by Licensee as per the Review	24.17
3	**Additional Interest on Working Capital to be allowed in the review petition (=2-1)**	9.53

Commission's Analysis

As already determined for Interest Cost, ROE and Depreciation, the MeECL GFA & other elements shall not be considered for Interest on working capital of MePDCL.

Commission has calculated the interest on working capital as per the Regulations in the true up orders already passed for FY 2016-17. The review of the interest on working capital component does not require any change.

3 Revised ARR & Net Additional Claim in Review for True up FY 2016-17

Petitioner's Submission

Based on the above submissions, the revised AR Rand additional amount claimed for MePDCL in this review is given below:

Table 16 : Revised ARR and Additional Amount Claimed in Review

(Rs. in cr)

Sl. No.	ARR Elements	Approved in True Up	MePDCL Claimed in Review	Additional Gap to be Passed
1	Power Purchase Cost	548.10	596.31	48.21
2	Transmission charges (PGCIL)	117.11	117.11	
3	Transmission Charges (MePTCL)	83.28	83.28	
4	Employee Expenses	136.35	136.35	
5	Repairs & Maintenance Expenses	10.06	10.06	
6	Administrative & general Expenses	10.40	10.40	
7	Depreciation	10.15	15.28	5.13
8	Interest & Finance Charges	8.46	21.23	12.77
9	Interest on Working Capital	14.64	24.17	9.53
10	Other Debts (Incl. Provision for bad Debts)	-	-	
11	Prior period Charges (Credits)	-4.53	-4.53	
12	Income Tax	-	-	
13	Return on Equity	10.99	113.54	102.55
	Gross ARR	**945.01**	**1123.21**	**178.20**
14	Less: Non-Tariff Income , Other Income	88.57	86.96	-1.61
15	Less: RE Subsidy&Revenue Grant on other Expenditure	22.50	22.50	
16	Less: Cross Subsidy Surcharge	-	-	
17	Less: Amortization of grants (Note 19 of SOA)	4.78	4.78	
18	Less: Penalty for Non-achievement of AT&C loss	59.35	26.65	-32.70
19	Less: sale of Surplus Power	50.82	50.82	
20	Less: Revenue from sale of power(incl. Assam)	542.82	542.82	
21	Less: Surplus energy in the energy balance table for 10.30 MU at 2.65/ Kwh is adjusted	2.73	0.00	-2.73
22	**Total (14 to 21)**	**771.57**	**734.53**	**-37.04**
23	**Net GAP/ (Surplus)**	**173.44**	**388.68**	**215.24**

Based on the above submission, MePDCL requests the Commission to approve the above-mentioned amount of **INR 215.24 Cr** and allow MePDCL to recover the same in the ARR of FY 2020-21.

Commission's Analysis

Commission had considered the claims of the licensee with reference to the audited accounts, the expenses have been allowed as admissible with reference to the Regulations after prudence check for the true up of the ARR for FY 2016-17.

The Approved ARR after review is as depicted in the table below

Table 17 : Approved ARR for FY 2016-17 (Review)

(Rs. in cr)

Sl. No.	ARR Elements	Approved in True Up orders dated 18.11.2019	MePDCL Claimed for Review	Approved in Review
1	Power Purchase Cost	548.10	596.31	548.10
2	Transmission charges (PGCIL)	117.11	117.11	117.11
3	Transmission Charges (MePTCL)	83.28	83.28	83.28
4	Employee Expenses	136.35	136.35	136.35
5	Repairs & Maintenance Expenses	10.06	10.06	10.06
6	Administrative & general Expenses	10.40	10.40	10.40
7	Depreciation	10.15	15.28	9.94
8	Interest & Finance Charges	8.46	21.23	8.46
9	Interest on Working Capital	14.64	24.17	14.64
10	Other Debts (Incl. Provision for bad Debts)	-	-	-
11	Prior period Charges (Credits)	-4.53	-4.53	-4.53
12	Income Tax	-	-	-
13	Return on Equity	10.99	113.54	10.99
	Gross ARR	**945.01**	**1123.21**	**944.80**
14	Less: Non-Tariff Income , Other Income	88.57	86.96	88.57
15	Less: RE Subsidy&Revenue Grant on other Expenditure	22.50	22.50	22.50
16	Less: Cross Subsidy Surcharge	-	-	-
17	Less: Amortization of grants (Note 19 of SOA)	4.78	4.78	4.78
18	Less: Penalty for Non-achievement of AT&C loss	59.35	26.65	59.35
19	Less: sale of Surplus Power	50.82	50.82	50.82
20	Less: Revenue from sale of power(incl. Assam)	542.82	542.82	542.82
21	Less: Surplus energy in the energy balance table for 10.30 MU at 2.65/ Kwh is adjusted	2.73	0.00	2.73
22	**Total (14 to 21)**	**771.57**	**734.53**	**771.57**
23	**Net GAP/ (Surplus)**	**173.44**	**388.68**	**173.23**

The True up Gap as approved above shall be appropriated in the next tariff orders to be issued.

The Review petition stands disposed off.

Sd/-
Member
MSERC

Sd/-
Chairman
MSERC