

**MEGHALAYASTATEELECTRICITYREGULATORYCOMMISSION
SHILLONG**

CASE NO.19/2023

Petition

In the matter of Review of True-up Order for FY 2020-21 dated 22.03.2023

AND

Meghalaya Power Distribution Corporation Limited (the Petitioner)

Coram

P.W. Ingty, IAS (Retd.),

Chairman

R.K. Soni, District & Session Judge (Retd.),

Member

ORDER

(Dated:16.11.2023)

1. MePDCL has filed the Review Petition dated 13th July, 2023 against the True up orders for FY 2020-21 dated 22.03.2023.
2. Commission had approved True up order for FY 2020-21 as per Regulation 11 of MYT Regulations, 2014.
3. Regulation 22.2 of MYT Regulation 2014 specifies that the Commission shall under take the review of True up order provided that.
 - a) the review petition is filed within sixty days from the date of the order
 - b) there is an error apparent on the face of the record
4. The petitioner has filed condonation petition for the delay in filing petition beyond prescribed 60 days.
5. Commission in its proceedings dated 21.08.2023 has allowed the petition for condonation of delay in filing the review petition.

6. Commission taking into consideration of all the facts and additional information/data, analysed the petition for review of True up orders dated 22.03.2023 and approves the Review ARR as per the MSERC MYT Regulations 2014 in the chapters annexed to this order.

Sd/-
Shri. R.K. Soni, District Judge (Retd.)
Member

Sd/-
Shri. P.W. Ingty, IAS (Retd)
(Chairman)

Introduction

Petitioner's Submission

The petitioner, Meghalaya Power Distribution Company Limited is the deemed licensee in terms of section 14 of the Electricity Act 2003 (herein after referred to as Act), engaged in the business of distribution of electricity in the state of Meghalaya. The present Petition is being filed under Section 94(1)(f) of the Electricity Act, 2003 ("Electricity Act") read with Clause 22 of the MSERC (Multi Year Tariff) Regulations, 2014 read with Regulation 21 of the Meghalaya State Electricity Regulatory Commission (Conduct of Business) Regulations, 2006 seeking review of the order dated 22.03.2023 ("Impugned Order") passed by this Commission in Case no. 21/2022 being petition for approval of True-up of Distribution Business for FY2020-21.

The present review petition against the Impugned Order passed by this Hon'ble Commission, is being filed by the Meghalaya Power Distribution Corporation Limited ("MePDCL/ Review Petitioner") based on the actual figures as per the audited Statement of Accounts ("SoA"). Copy of the order dated 22.03.2023 passed in Case no. 21/2022 by this Hon'ble Commission, being the Impugned Order, is annexed herewith and marked as ANNEXURE-1.

The submissions made by the Review Petitioner in its Petition for True Up of Distribution Business for FY 2020-21 ("True-up Petition") are set out in exten so therein and are not repeated herein again for the sake of avoiding prolixity. The Review Petitioner also craves the leave of the Commission to refer to and rely upon the pleadings and submissions made in Case no. 21/2022 at the time of hearing of the instant petition.

The Review Petitioner respectfully submits that there are errors apparent on the face of record, discovery of new facts with respect to the Impugned Order passed by this Commission. Further, there are sufficient cause for reviewing, rectifying and modifying the Impugned Order to the extent and for reasons set out in this Review Petition. It is humbly submitted that while passing the Impugned Order, this Commission has inadvertently made certain errors which need to be rectified. The Review Petitioner by way of the instant review petition is beseeching this Commission to take note of such errors and pass appropriate order.

Commission's views

It is the matter of Record within the ambit of Regulations, anything stated therein contrary to records considered as incorrect.

Legal Provisions governing Review:

Section 94(1)(f) of the Act bestows regulatory commission with the power to review its decisions, directions and orders.

Clause 22 of the MSERC (Multi Year Tariff) Regulations, 2014 state that a review petition against a tariff order can be admitted by the Hon'ble Commission when there is error apparent on the face of the record. The Clause 22 reads as follows:

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.

Regulation 21 of the Meghalaya State Electricity Regulatory Commission (Conduct of Business) Regulations, 2007 encapsulates the following:

"21. Review of the decisions and orders of the Commission

(1) 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.

Commission's views

It is the matter of Regulations, anything stated therein contrary to Regulations considered as incorrect.

Commission had allowed the petition in relaxation of delay in filing the Review petition beyond permissible 60 days vide proceedings dated 21.08.2023.

GROUNDNS FOR REVIEW

A) ASSESSMENT OF REVENUE AGAINST SALE OF ENERGY TO KUTIR JYOTI

Petitioner's Submission

The Hon'ble Commission in its True Up order dated 22.02.2023 has stated that the excess sales to Kutir Jyoti consumers has been recorded for 53.67MU.

"Petitioner has reported total domestic sales at 482.62 MU including Kutir Jyoti for FY 2020-21. But the Revenue realization has not been segregated for Kutir Jyoti consumers.

Commission considers the excess sales of Kutir Jyoti (BPL) for 53.67 MU reported for True up shall be assessed for the difference in the Tariff rates of Kutir Jyoti and Domestic Consumers at corresponding slab rates. Thus, the difference rate of domestic first slab atRs.1.55 Ps/Kwh (5.20 – 3.65) shall be assessed for excess kutir jyoti sales of 53.67 MU for True up of FY 2020-21 and accordingly the Revenue from operations shall be increased."

Further, Commission at page 7 of the Impugned Order has stated:

"Therefore, the sales to these 2,26,477 consumers shall be considered at 81.53 MU and the remaining 6.17 MU should have been billed under applicable domestic category Tariff at Rs.5.20 Ps/Kwh which earns Revenue to Discom at Rs.3.21 Crore for FY2020-21."

In this regard, it is pertinent to be brought to the notice of this Hon'ble Commission that vide its order dated 01.11.2017 the Business Plan for the control period FY 2018-19 to FY 2020-21 was approved. In accordance with the same, the number of consumers approved under the category of Kutir Jyoti for FY 2020-21 were 86779 and approved sales amounted to 34.03MU.

As per the ARR and retail tariff order for FY 2020-21 dated 25.03.2020 , the number of Kutir Jyoti consumers remained same as 86,779 as approved in the business plan for FY . And the total sales to these consumers was projected to be 31.24MU. The Commission held that the licensee shall ensure the billing of consumers in excess approved sales at LT domestic tariff rates for balance sales where the permissible 30 units per consumer is exceeded by Kutir Jyoti consumers. Relevant excerpt is reproduced herein below:

"5.3.2 Energy Sales

Kutir Jyoti

The Licensee has projected Kutir Jyoti sales at 34.03 MU for FY 2020-21. Commission considers the Kutir Jyoti sales at 34.03 MU for FY 2020-21. The number of Kutir Jyoti consumers shall be 86,779 as

approved for Business plan, the total sales to these consumers shall be 31.24 MU for application of Tariff rates under Kutir Jyoti category at 30 units per consumer per month. MePDCL shall ensure the Billing of Consumers at LT domestic tariff rates for balance 2.79 MU where the permissible 30 Units per consumer is exceeded by Kutir Jyoti consumers."The Petitioner's ARR and tariff order for FY 2020-21 under the approved tariff head further stated that Kutir Jyoti consumers consuming within 0-30 units shall be billed at Rs. 3.65 per unit for monthly consumption. And approved the domestic tariff for first 100 units slab at Rs. 3.70 per unit. Relevant excerpt is reproduced for ease of reference:

"APPROVED TARIFFS FOR FY 2020-21

1.1 Kutir Jyoti/ BPL All Kutir Jyoti connections will be metered and there shall be no unmetered connections. KJ consumers consuming within 0-30 units shall be billed at Rs3.65 per unit for monthly consumption within 30 units.

1.1.2 Metered Kutir Jyoti The MePDCL has proposed tariff of metered Kutir Jyoti consumers at Rs. 3.65 per unit for monthly consumption within 0-30 units. They have also proposed that if the monthly consumption in any month exceeds the limits of 30 units then their excess consumption over and above 30 units shall be done on the Tariff as prescribed for normal domestic consumers. The Commission has allowed Rs. 3.65 per unit for BPL metered category up to consumption of 30 units. In case, they consumes more than 30 Units then the billing of excess units shall be done on the Tariff prescribed for normal domestic consumers at appropriate slab rates.

1.2 Domestic consumers

.....

Energy Charges

Energy charges for domestic consumers for FY 2020-21

Category	Slabs	Existing tariff	Proposed Tariff	Approved Tariff
Domestic (DLT)	First 100 units	3.70	5.35	3.70
	Next 100 units	4.20	6.10	4.20
	Above 200 units	5.70	8.25	5.70

It is humbly submitted that the Hon'ble Commission has erred in considering the first slab of Domestic LT rate as Rs. 5.20/kwh, which is an error apparent on the face of the record as maybe seen from the table above that it should have been Rs. 3.70 per unit.

The actual sales to the Kutir Jyoti, as was submitted by the Petitioner was 87.70MU for FY2020-21. Therefore, the excess sales to Kutir Jyoti consumers totals to 53.67 MU for FY 2020-21. The domestic slab rate as approved in the ARR for FY 2020-21 amounted to Rs.

3.70 per unit. This Commission erred in calculating the tariff difference for excess sales to the Kutir Jyoti consumers:

$$\begin{aligned}\text{Units for 1 year} &= \text{No of consumers} \times \text{Maximum units allowed under KJ per month} \times 12 / 10^6 \\ &= 226477 \times 30 \times 12 / 10^6 \\ &= 81.53 \text{ MU}\end{aligned}$$

Total Units sale to KJ = 87.70 MU

Units beyond 30Units per month = 87.70 - 81.53= 6.17 MU

Accordingly, 81.53 MU should have been billed at Kutir Jyoti consumer category tariff and 6.17 MU (consumption beyond 30 units per month)

The Hon'ble Commission has assessed that the excess sales to Kutir Jyoti has earned the revenue to the Petitioner of Rs. 3.21 crore while calculating the consumption beyond 30Units at Rs. 5.20 ps/Kwh instead of calculating the same at Rs. 3.70 ps/Kwh. Therefore, the domestic first slab should be Rs.3.70 and not Rs 5.20 and therefore amount from the remaining 6.17 MU that should have been billed under applicable domestic category Tariff at Rs.3.70 Ps/Kwh would be Rs.2.28 Crore for FY 2020-21.

Working of the same is provided below:

$$\text{Rate} * \text{MU} / 10 = 5.20 * 6.17 / 10 = \text{Rs. 3.21 Cr}$$

$$\text{Rate} * \text{MU} / 10 = 3.70 * 6.17 / 10 = \text{Rs. 2.28 Cr}$$

Therefore, it is humbly submitted that the Commission should rather approve Rs. 2.28 cr as revenue from sales to Kutir Jyoti consumers rather than the inflated revenue of Rs. 3.21 cr. This is an error apparent on the face of record which needs to be rectified by the Hon'ble Commission.

Commission's Analysis

Schedule of approved Tariffs for FY 2020-21 vide para 1.1.2 reads as follows

The Commission has allowed Rs.3.65 per unit for BPL metered category upto consumption of 30 units. In case, they consume more than 30 units then the billing of excess units shall be done on the Tariff prescribed for normal domestic consumers at the appropriate slab rates.

Commission had called for the reasons for not billing the excess consumption by kutir jyoti (BPL) consumers as per the Tariff schedule in its letter dated 09.12.2022.

The petitioner in their letter dated 22.12.2022 has not submitted any reasons vide Annexure-II nor given the number of consumers billed under kutir jyoti (BPL) category for FY 2020-21.

Commission in the absence of the Kutir Jyoti (BPL) consumers' billing data with reference to the audited accounts had to consider the number of consumers approved in the Business plan for FY 2020-21 and estimated the permissible consumption to be billed at the prescribed rate of Rs.3.65 ps/unit for 226477 consumers at 30 units per month out of the total sales reported as 87.70 MU. ($226477 * 30 * 12 = 81.53$ MU)

Thus there has been an excess of 6.17 MU to be considered for billing at normal domestic consumers tariff rates at the appropriate slab.

Commission has notified average billing rate (ABR) at Rs.5.06 per unit in the first 100 units slab of domestic consumers which includes fixed charges of Rs.60 per KW in the category wise tariffs approved for FY 2020-21.

Accordingly commission assessed short billing of 6.17 MU at Rs.5.06 per unit which includes fixed charges at Rs.60 per KW at the minimum of first Slab 0-100 units and included in the Revenue to be considered for True up of the business for FY 2020-21.

The claim of the petitioner for computation of short billing at Rs.3.70 Per unit in the Review petition is worked out without considering the fixed charges of Rs.60 per KW to be billed as per the approved tariffs applicable for normal domestic consumers as per the schedule of Tariff rates.

Since there is a cushion to the effect that, the consumers of BPL may receive a special support through cross subsidy, the Tariff for Such consumers will be at 50% of the average cost of supply as notified vide para 8.3 (1) of the National Tariff Policy 2016.

The average cost of supply for FY 2020-21 computed to be at Rs.6.62 Ps/unit including fixed charges of Rs.60/Kw for the first slab of 0-100 units Normal Domestic consumers approved in the Tariff Schedule. Whereas the Tariff for BPL consumers who consume more than 30

units was notified at Rs.3.70 ps/unit which falls below the 50% of the average cost of supply to be fixed at Rs.3.31 Ps/unit.

Whereas the claim of the petitioner for consideration of the unit rate at Rs.3.70 ps/unit for excess 6.17 MU, the Revenue of the BPL consumers who have consumed above 30 units limit is within the allowable 50% cross subsidy level.

Commission considers computation of billing of the BPL consumers at Rs.3.70 Ps/unit where the consumption is more than 30 units per month and the short assessment observed is revised as depicted in the table below for Review of True up for FY 2020-21.

Table 1 : Computation of short billing in the True up order vs actual to be considered for True up of FY 2020-21 (Review) in respect of Kutir Jyoti (BPL) consumers

Kutir Jyoti	Billed at Rs.5.20 Ps/unit	Actual to be billed at Rs.3.70 Ps/Unit	Difference to be appropriated
Excess consumption 6.17 MU	Rs.3.21 Cr	Rs.2.28 Cr	Rs.0.93 Cr

This excess Revenue assessed in the True up orders for Rs.0.93 Crore shall be appropriated in the next tariff Order.

B) DEDUCTION OF 1% REBATE FROM POWER PURCHASE COST INCLUDING TRANSMISSION CHARGES

Petitioner's Submission

The Commission in the Impugned Order has considered INR 889.32 Cr, against the claim of INR 1027.20 Cr for power purchase cost including transmission charges. Out of disallowed cost, INR 9.04 Cr is the amount disallowed as 1% rebate amount. The detail deduction is shown below:

Source	1% Rebate
NTPC	1.56
NEEPCO	2.03
OTPC	1.67
MePGCL	1.75
Kreate	0.17
APPCL	0.34
POSOCO	0.01
PGCIL	0.99
MePTCL	0.52
Total	9.04

It is pertinent to mention here that rebate is essentially an incentive for early payment and depends on the actual amount paid and the time for payment is relevant to be entitled to such incentive. Rebate is nothing but an incentive for the payee to pay much in advance before the due date of the bill by the payee for the benefit of receiver. Further, it is a contractual term and depends on wording of the agreement.

Any rebate, if received from the Gencos and other utilities is duly reflected in the Statement of Account of Review Petitioner as Other Income. However, it is submitted that no rebate is received for procurement of power from trading companies. It is humbly submitted that the purchase of electricity from the trading companies takes place under three situations:

- a. When purchase is made against receipt of power under swapping condition.
- b. When purchase is made from Indian Energy Exchange (“IEX”); and
- c. When purchase is made by way of bilateral transaction.

In the said situations, the procurer is not provided any rebate and the period for payment of bills is also very short and varies from 7-14 days only.

It is humbly submitted that the power procurement from Kreate and APPCL in this case is power procurement from trading companies and hence, no rebate should have been deducted on the same in calculation of the power purchase cost.

As per the Regulation 36 of the MSERC MYT Regulation, 2014 rebate is applicable only on the invoices raised by the generating company or transmission licensee for payment of bills of generation of tariff or transmission charges. The relevant extract of the MSERC MYT Regulation 2014 is reproduced below:

“36 Rebate

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.”

It is further submitted that even under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 ("CERC Tariff Regulations, 2019) , which govern the central generating companies like NTPC and OPTC and other central utilities such as PGCIL and POSOCO, rebate is allowed on presentation of bills by the generating companies or the transmission licensees. The relevant extract of the CERC Tariff Regulation 2019 is reproduced below:

"58. Rebate.

(1) For payment of bills of the generating company and the transmission licensee through letter of credit on presentation or through National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) payment mode within a period of 5 days of presentation of bills by the generating company or the transmission licensee, a rebate of 1.50% shall be allowed.

Explanation: In case of computation of '5 days', the number of days shall be counted consecutively without considering any holiday. However, in case the last day or 5th day is official holiday, the 5th day for the purpose of Rebate shall be construed as the immediate succeeding working day (as per the official State Government's calendar, where the Office of the Authorised Signatory or Representative of the Beneficiary, for the purpose of receipt or acknowledgement of Bill is situated).

(2) Where payments are made on any day after 5 days and within a period of 30 days of presentation of bills by the generating company or the transmission licensee, a rebate of 1% shall be allowed."

It is humbly submitted that the Hon'ble Commission has inadvertently erred in application of the MSERC MYT Regulation 2014 and CERC Tariff Regulations 2019.

It is submitted by the Review Petitioner that the Hon'ble Commission in its own previous True-up orders has not deducted the rebate on energy supplied by the trading entities such as Kreate and APPCL. The Hon'ble Commission has approved the Power Purchase Cost without deducting the 1% rebate on the energy supplied by the trading companies. The Hon'ble Commission has accepted the power purchase cost on the actuals and has not deducted any rebate on the energy supplied by the trading companies. The detail of the deduction allowed by the Hon'ble Commission in True-up Order for FY 2018-19 and FY 2019-20 is reproduced here in below for reference:

FY 2019-2020

Table 12

SI No.	Name of the Generator/Source	Energy Drawn in MU	MePDCL Actuals (in Rs Cr)	Approved for True up (Rs Cr)
1	NEEPCO	597.82	255.92	190.42
2	NHPC	0.00	1.74	0.00
3	OTPC LTD	400.63	139.19	125.82
4	NVVN LTD	0.00	0.00	0.00
5	NTPC LTD	0.00	203.75	151.74
6	POSOCO	0.00	1.56	1.54
7	APPCL	124.47	4.53	4.53
8	MPL-Banking	4.02	0.00	0.00
9	MPPL &Keipl	105.76	2.53	2.53
10	DEVIATION (INTER)	59.93	19.30	17.41
11	DEVIATION (INTRA)	5.04	-0.02	-0.02
12	VAR Charges	0.00	0.00	0.00
13	Adhunik Cement (Swap)	12.64	0.00	0.00
14	MePGC Ltd	1070.14	287.47	284.53
	Sub-Total	2380.45	915.98	778.50
	Transmission Charges			
15	PGCIL	0.00	82.95	81.98
16	MePTC Ltd	0.00	98.64	97.65
	Total	2380.45	1097.57	958.13

Table 13

Station	MePDCL Actuals			Approved for True up FY 2019-20		
	Energy (MU)	Total Cost (Rs Cr)	Unit cost/kWh	Energy (MU)	Total Cost (Rs Cr)	Unit cost/kWh
NTPC						
Farakka	0.00			0.00		
Kahalgaon I	0.00	0.00		0.00	0.00	
Khalgaon II	0.00	0.00		0.00	0.00	
Talcher	0.00	0.01		0.00	0.01	
Bongaigoan	0.00	203.74		0.00	167.84	
OTPC						
OTPC Pallatana	400.63	139.19	3.47	400.63	127.09	3.17
NEEPCO						
Kopili Stage-I	64.47	9.14	1.42			
Kopili Stage-II	6.51	0.50	0.77			
Khandong HEP	16.16	1.83	1.13			
Ranganadi HEP	126.91	30.71	2.42			
Doyang HEP	19.18	11.22	5.85			
AGBPP	161.19	71.45	4.43			
AGTPP		0.00				
AGTCCPP	90.00	40.74	4.53			
Pare HEP	53.55	26.83	5.01			
NEEPCO		63.50				

Surcharge						
Free Power	59.85					
Total Neepco				597.82	194.73	3.26
NHPC						
NHPC Loktak	0.00	1.74		0.00	0.00	
MePGCL						
Umiam Stage-IHEP	107.31	5.45	0.51			
Umiam State-IIHEP	54.91	3.48	0.63			
Umiam State-IIIHEP	140.97	9.50	0.67			
Umiam State-IVHEP	163.38	8.45	0.52			
Umtru HEP	-0.06	0.95				
Myntdu Leshka HEP	417.87	233.29	5.58			
New Umtru	180.15	25.95	1.44			
Sonapani	3.55	0.20	0.56			
Ganol						
Lakroh	2.06	0.20	0.97			
Total MePGCL				1070.14	205.91	1.92
Short Term						
Kreate Energy(I) Pvt Ltd – Swapping	105.62	2.48	0.23	105.62	2.48	0.23
Kreate Energy (I) Pvt Ltd -IEX	0.14	0.05	3.57	0.14	0.05	
Meghalaya Power Ltd.(MPL)- Banking	4.02	0.00		4.02	0.00	
APPCL(Swap)	124.47	4.53	0.36	124.47	4.53	0.36
NVVN						
PTC India Ltd		0.01			0.00	
Adhunik Cement Ltd (Swapping)	12.64	0.00		12.64	0.00	
Deviation Inter	59.93	19.30	3.22	59.93	17.41	2.90
Deviation Intra	5.04	-0.02		5.04	-0.02	
POSOCO		1.56			0.87	
VAR Charges		0.00			0.00	
MePTCL					77.65	
PGCIL					81.98	
Total	2380.45	915.98	3.85	2380.45	880.52	3.70

FY 2018-19

Table 10

Sl. no	Name of the Generator/Source	Energy Drawn in MU	MePDCL Actuals (in Rs Crore)	Approved for True Up(in Rs Crore)
1	NEEPCO	544.26	219.35	170.61
2	NHPC	0.00	2.00	0.005
3	OTPC LTD	489.53	160.58	148.99
4	NVVN LTD	0.49	0.01	0.01
5	NTPC LTD	0.00	158.41	88.25
6	POSOCO	0.00	1.14	1.13
7	APPCL	269.59	4.26	4.26

8	MPL-Banking	11.75	0.00	0.00
9	MPPL	111.95	1.68	1.68
10	REC SNCA Energy Pvt. Ltd.	0.00	0.17	0.17
11	DEVIATION (INTER)	6.62	3.80	3.80
12	DEVIATION (INTRA)	4.55	-1.39	-1.35
13	VAR Charges	0.00	-0.41	-0.41
14	Adhunik Cement (Swap)	15.46	0.00	0.00
15	MePGC Ltd	971.36	275.91	273.08
	Sub-Total	2425.56	825.51	690.23
	Transmission Charges			
16	PGCIL	0.00	54.28	52.11
17	MePTC Ltd	0.00	66.84	66.17
	Sub Total			118.28
	Total	2425.56	946.63	808.51

Table 11

Station	MePDCL Actuals			Approved for True up FY 2018-19Excl. Supplementary Bills		
	Energy (MU)	Total Cost (RsCr)	Unit cost/kWh	Energy (MU)	Total Cost (RsCr)	Unit cost/kWh
NTPC						
Farakka	0.00	0.06		0.00	0.00	
Kahalgaon I	0.00	0.01		0.00	0.00	
Khalgaon II	0.00	0.04		0.00	0.00	
Talcher	0.00	0.05		0.00	0.00	
Bongaigoan	0.00	158.25		0.00	117.30	
OTPC						
OTPC Pallatana	489.53	160.58	3.28	489.53	152.69	3.12
NEEPCO						
Kopili Stage-I	96.77	15.02	1.55			
Kopili Stage-II	6.71	1.25	1.86			
Khandong HEP	19.06	4.70	2.47			
Ranganadi HEP	109.27	32.13	2.94			
Doyang HEP	23.75	13.50	5.68			
AGBPP	119.06	59.96	5.04			
AGTPP		0.00				
AGTPP C-Cycle	51.28	25.31	4.94			
Pare HEP	40.84	20.46	5.01			
NEEPCO Surcharge		47.02				
Free Power	77.52					
Total NEEPCO				544.26	160.87	2.96
NHPC						
NHPC Loktak	0.00	2.00		0.00	0.004	
MePGCL						
Umiam Stage-I HEP	84.15	4.08	0.49			
Umiam State-II HEP	43.05	2.55	0.59			
Umiam State-III HEP	132.91	7.71	0.58			
Umiam State-IV HEP	165.49	7.10	0.43			
Umtru HEP	-0.06	0.90				

Myntdu Leshka HEP	360.31	226.88	6.30			
New Umtru	178.36	26.44	1.48			
Sonapani	7.07	0.23	0.33			
Ganol						
Lakroh	0.08	0.02	2.50			
Total MePGCL				971.36	275.91	2.84
Short Term						
Mittal Processors Pvt. Ltd.(MPPL) -Swapping	111.95	1.68	0.15	111.95	1.68	0.15
Mittal Processors Pvt. Ltd.(MPPL) – Solar REC		0.17			0.17	
Meghalaya Power Ltd.(MPL) - Banking	11.75	0.00		11.75	0.00	
APPCL(Swap)	269.59	4.26	0.16	269.59	4.26	0.16
NVVN	0.49	0.01	0.15	0.49	0.01	0.20
Adhunik Cement Ltd(Swapping)	15.46	0.00		15.46	0.00	
Deviation Inter	6.62	3.80	5.74	6.62	3.80	5.74
Deviation Intra	4.55	-1.39		4.55	-1.39	
POSO		1.14		0.00	1.14	
VAR Charges		-0.41		0.00	-0.41	
Sub Total				2425.56	716.03	2.95
Transmission Charges						
PGCIL					45.63	
MePTCL					66.84	
Total	2425.56	825.51	3.40	2425.56	828.50	3.42

It is most respectfully submitted that the Hon'ble Commission has erroneously included the deduction of rebate of 1% for Kreate and APPCL i.e., INR 0.17 Cr and INR 0.34 Cr respectfully in its Impugned Order while approving the Power Purchase Cost in True-up for FY 2020-21. This appears to be an obvious error on the face of record and therefore, the Hon'ble Commission may kindly review the deduction of 1% rebate for Kreate and APPCL.

Commission's Analysis

Regulation 36 of MSERC MYT Regulations 2014 states that

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.

The licensee was asked to furnish the source wise documentary reference of 1% rebate availed from the power purchase bills if any in order to consider the claim of the Petitioner MePDCL for review.

The licensee has submitted in their letter dated 20.10.2023, a statement of account for Rs.14.04 Crore towards rebate on purchase of Energy as non Tariff income projected in the Review petition.

It is observed from the statement of account that rebate related to Covid-19 lockdown period rebate.

Similarly the Rebate availed from NTPC, Power Grid and POSOCO are related towards Covid-19 lockdown period rebate and additional rebate.

The submission of the licensee that 1% rebate has already been accounted, as rebate on purchase of Energy and shown as other income in the statement of accounts represents COVID-19 lockdown period rebate, is a different transaction all together which is also income to the distribution licensee.

Commission in exercise of functions vested in section 86.1 (b) and 86.2 (i) of Electricity Act 2003 has ensured the transactions of the distribution business are considered in as much the mandatory functions to regulate the electricity business.

The deduction of 1% rebate from the power purchase bills for timely payment to the generators, transmission licensee has been regulated as per Regulation 36 of MSERC MYT Regulations 2014.

Commission had allowed working capital in the ARR and tariffs to meet the contingencies of timely payment to the creditors while availing the facility provided in discharge of power purchase liability, as per the Regulations. The 1% rebate deducted from Kreate Energy limited and APPCL (the traders) was the facility one available for Generation and Transmission licensees while discharging the power purchase liability has been made applicable.

However, the claim of the licensee to reconsider the 1% rebate deducted from Kreate Energy limited and APPCL for Rs.0.17 Crore and Rs.0.34 Crore respectively is withdrawn for Review in the light of the Regulation 36 which does not provide the facility of 1% rebate specifically from the power traders.

Commission approves the 1% rebate reconsidered as depicted in the table below for review of True up for FY 2020-21.

Source	1% Rebate Approved for True up	Now Approved for Review of True up
NTPC	1.56	1.56
NEEPCO	2.03	2.03
OTPC	1.67	1.67
MePGCL	1.75	1.75
Kreate	0.17	-
APPCL	0.34	-
POSOCO	0.01	0.01
PGCIL	0.99	0.99
MePTCL	0.52	0.52
Total	9.04	8.53

In view of the review of 1% rebate considered in the True up process for FY 2020-21, the power purchase cost notified vide table no.12 of True up orders shall stand revised as depicted in the table below.

Table 2 : Power Purchase Cost for Review of True up of FY 2020-21

Sl. no	Name of the Generator/Source	Energy Drawn in MU	Approved for True up (Rs Cr)	Approved for Review (Rs Cr)
1	NTPC	0	151.11	151.11
2	OTPC	437.44	161.84	161.84
3	NEEPCO	573.86	200.46	200.46
4	NHPC	0	0	0
5	Kreate Energy (MPPL)	59.55	16.64	16.81
6	APPCL	170.91	33.91	34.25
7	Dalmia (P) Ltd (Swapping)	4.46	0	0
8	Meghalaya Power Ltd (MPL) Banking	7.85	0	0
9	Deviation Inter	14.25	3.77	3.77
11	Deviation Intra	5.15	0	0
12	POSOCO	0	0.82	0.82
13	VAR Charges	0	0	0
14	MePGCL	1229.11	173.11	173.11
	Sub-Total (A)	2511.58	741.66	742.17
	Transmission Charges			
15	PGCIL		95.73	95.73
16	MePTCL		51.93	51.93
	Sub Total (B)		147.66	147.66
	Total (A+B)	2511.58	889.32	889.83

C) INCLUSION OF INR 14.04 Cr ON ACCOUNT OF REBATE ON PURCHASE OF ENERGY AS PART OF NON-TARIFF AND OTHER INCOME

Petitioner's Submission

The Hon'ble Commission in the Impugned Order while computing the admissible Non-Tariff and Other Income at INR 118.98 Cr for True up of FY 2020-21 has also taken into consideration the Rebates on purchase of energy amounting to INR 14.04 Cr. The table approving the Non Tariff Income for True up of FY 2020-21 is reproduced herein below:

TABLE No. 33 of the Impugned Order @ page 35

Sl. No	Particulars	For the Year ended 31 st March 2021
	Non Tariff Income (Note no.24)	
1	Meter Rent	6,21,45,212.19
2	Margin Payment Charges collected from consumers	-
3	Reconnection fees	1,33,950.00
4	DPS Collected from Consumers	1,87,00,960.30
5	Rebates on Purchase of Energy	14,03,52,188.00
6	Other charges from Consumers	15,41,63,461.49
	Sub Total	37,54,95,771.98
1	Cross Subsidy Surcharge (Note no.24.2)	17,27,32,481.00
	Sub Total- (A)	54,82,28,252.98
	Other Income (Note no.25)	
1	Interest on Deposits from Banks	3,90,10,449.85
2	From Others	32,031.00
3	Rental and Hiring Income	6,43,451.00
4	Fees and Penalties	51,699.68
5	Sale of scrap, tender forms and others	6,06,660.00
6	Miscellaneous receipts	7,25,27,200.79
7	Amortization of Grants and subsidies	25,15,49,561.52
8	Amortization of Consumer Contributions	2,89,32,682.35
9	Revenue Grants for Other Expenditure	17,78,89,000.00
	Sub Total- (B)	57,12,42,736.19
1	NEEPCO RRAS (C)	17,29,519.00
2	The Other Income from MeECL apportioned share reported in note no.21 of audited accounts (D)(Rs. 13131002.7 + Rs.5,55,15,143.00)	6,86,461,45.70
	Total (A+B+C+D)	118,98,46,653.87

It is a settled law that rebate of 1% available for payment of power purchase bill within one month should be considered as Non-Tariff Income. The rebate earned on early payment of power purchase cost cannot be deducted from the power purchase cost and rebate earned only up to 1% alone can be treated as part of the non-tariff income.

It is humbly submitted that this Hon'ble Commission has inadvertently overlooked the fact that the rebate amounting to INR 14.04 Cr already includes the rebate of INR 8.53 Cr

considered in the power purchase cost and need not be included under the power purchase head separately. The Hon'ble Commission erred in considering 1% rebate on purchase of energy and therefore, the said amount of INR 8.53 crores (INR 9.04 crores including the rebate calculated on power purchase from trading licensees) should not be reduced from power purchase cost, rather the actual rebate should only be reflected under the head Non-Tariff and Other Income, as was submitted by the Petitioner in its true-up petition.

Rebate considered while arriving at the power purchase cost in the True-up order for FY 2020-21

Source	1% Rebate
NTPC	1.56
NEEPCO	2.03
OTPC	1.67
MePGCL	1.75
Kreate	0.17
APPCL	0.34
POSOCO	0.01
PGCIL	0.99
MePTCL	0.52
Total	9.04
Less rebate considered on power procured from trading companies	8.53

The relevant paragraph from the true up petition is reproduced for easy reference

Table 22: Other Income in FY 2020-21 (INR Cr)

Sr. No.	Particulars	Actuals
A	Other Income	
	Interest Income: (Note 25 of MePDCL Accounts)	
	From Banks	3.90
	From Others	0.00
	Other non-operating income:	-
	Rental and Hiring Income	0.06
	Fees and Penalties	0.00
	Sale of scrap, tender forms and others	0.06
	Miscellaneous receipts	7.26
	Amortization of Grants and Subsidies	25.15
	Amortization of Consumer Contributions	2.89
B	Revenue Subsidies and Grant	
	R.E. Subsidies	-
	Revenue Grants for Other Expenditures	17.79
C	Other operating revenues-	
	Meter Rent	6.21

	Margin Money from Regulated Power	0
	Reconnection Fees	0.01
	DPS collected from Consumers	1.87
	Rebates on Purchase of Energy	14.04
	Other Charges From Consumers	15.42
	Cross Subsidy Surcharge	17.27
D	Apportioned Other Income from MeECL	6.86
	Total Other Income (A + B + C+D)	118.79

2.3.3 Power Purchase Cost

As provided earlier, MePDCL had procured power from Central generating stations, from generating stations of MePGCL as well as from other sources like exchange/swapping etc. All the State Generating stations being hydro are seasonal in nature and the annual generation depends on the rainfall for the year. MePDCL had to resort to short term power purchase on bilateral basis/banking/day ahead market etc. to meet the demand in lean seasons. In addition to this, there are power regulation on discom by NTPC.

A comparison of source wise power purchase cost as per the actuals and approved Power Purchase Cost as per the Tariff Order for FY 2020-21 is shown in the following table.

It is humbly submitted that the Review Petitioner, in its petition for true-up (as stated above) had already accounted the rebate on power purchase under the head of Other Income (Table 22 of the petition for true-up) and requested at para 2.3.3 of its petition that the said rebate, having already been accounted for, need not be deducted again from the power purchase cost.

The Hon'ble Commission has approved power purchase cost at INR 889.32 Cr including transmission charges for True up of FY 2020-21. The amount INR 889.32 Cr approved for power purchase cost has been calculated after deducting INR 9.04 Cr on account of rebate. Therefore, the amount of power purchase cost including the 1% rebate is Rs 889.32 Cr. The 1% rebate for trading company is to be excluded from the calculation of power purchase cost which is already discussed in the present Review Petition (Ground B). It is humbly submitted that inclusion of 1% rebate for calculation of power purchase cost is contrary to the existing regulatory and legal framework. Rather, rebate on energy purchase is to be treated under the head Non-Tariff and Other Income only. There is no justifiable reason for the Commission to reduce the power purchase cost by the amount of rebate earned.

It is respectfully submitted that the rebate incentive of the Review Petitioner has already been considered as is evident from Table 33 of the Impugned Order, therefore, the same rebate cannot be deducted twice by it being reduced again under the head of power purchase cost.

Relevant excerpt is reproduced below:

Table 33: Approved Non Tariff and Other Income for True-up of FY 2020-21

Sl. No	Particulars	For the Year ended 31 st March 2021
	Non-Tariff Income (Note no.24)	
1	Meter Rent	6,21,45,212.19
2	Margin Payment Charges collected from consumers	-
3	Reconnection fees	1,33,950.00
4	DPS Collected from Consumers	1,87,00,960.30
5	Rebates on Purchase of Energy	14,03,52,188.00
6	Other charges from Consumers	15,41,63,461.49
	Sub Total	37,54,95,771.98
1	Cross Subsidy Surcharge (Note no.24.2)	17,27,32,481.00
	Sub Total- (A)	54,82,28,252.98
	Other Income (Note no.25)	
1	Interest on Deposits from Banks	3,90,10,449.85
2	From Others	32,031.00
3	Rental and Hiring Income	6,43,451.00
4	Fees and Penalties	51,699.68
5	Sale of scrap, tender forms and others	6,06,660.00
6	Miscellaneous receipts	7,25,27,200.79
7	Amortization of Grants and subsidies	25,15,49,561.52
8	Amortization of Consumer Contributions	2,89,32,682.35
9	Revenue Grants for Other Expenditure	17,78,89,000.00
	Sub Total- (B)	57,12,42,736.19
1	NEEPCO RRAS (C)	17,29,519.00
2	The Other Income from MeECL apportioned share reported in note no.21 of audited accounts (D)(Rs. 13131002.7 + Rs.5,55,15,143.00)	6,86,461,45.70
	Total (A+B+C+D)	118,98,46,653.87

This is an error apparent on the face of the record and hence, requires rectification by this Hon'ble Commission.

Commission's Analysis

The licensee has submitted that rebate on purchase of Energy at 1% has already been considered and deducted from the cost of power purchase liability of the generators for prompt payment of power purchase bills as per Regulation 36 of the MSERC MYT

Regulations 2014. The petitioner has further submitted that, the Commission has considered the rebate/incentive in the non tariff income based on the audited accounts for FY 2020-21 in true up as is evident from Table 33 of the impugned Order dated 22.03.2023. The Commission vide letter no. MSERC/MePDCL/Review of True up/Order/FY 2020-21/189 dated 4th September 2023 has directed the licensee to submit documentary reference with source wise invoices for the 1% rebate deducted for prompt payment for Rs.9.04 Crore and details of rebate received towards purchase of Energy at Rs.14.04 crore as shown in the audited statement of accounts for FY 2020-21.

MePDCL vide letter no. MePDCL/SE(RA)/RA-72/Pt-XII/41 dated 20.10.2023 has submitted the details of breakup of rebate and additional rebate received as given below:

Sl. No.	Name of the Generator	Amount
A	COVID Rebate	
1	NEEPCO	4.32
2	NTPC	4.7
3	POWER GRID	2.29
	sub-total (A)	11.31
B	Additional Rebate	
1	NEEPCO	2.72
2	POSOCO	0.01
	sub-total (B)	2.73
C	Total Rebate availed	14.04

According to the details furnished by the petitioner, as above, the petitioner has received COVID-19 rebate amounting to Rs.11.31 crore and additional rebate for Rs.2.73 Crore.

As such the amount considered under non tariff income in the ARR for true up is appropriate/proper and correct as the total power purchase is considered by the Commission in true up for FY 2020-21.

The details include deferred capacity charges without Interest (for surcharge purpose) for Rs. 15.81 Crore for which no claim has been made in the Review petition.

The details submitted vide Annexure-6 of additional information projected as additional rebate for Rs.7.03 Crore and balance rebate for Rs.2.73 Crore against NEEPCO and POSOCO were not filed along with copies of invoices for Review of the True up petition.

The invoice wise details of rebate availed as called for in the commission's letter dated 30.08.2023 were not made available for the Review petition.

As could be compared with the elements included in the other income as per the statement of audited accounts, petitioner has not taken into account the NEEPCO RRAS for Rs.0.17 Crore disclosed in the Note no.24 of SoA as NTPC and NEEPCO RRAS for Rs.3.25 Crore. Out of the Revenue disclosed, NTPC has deducted the RRAS for Rs.3.08 Crore from the power purchase bills and the balance amount of Rs.0.17 Crore has no corresponding RRAS details in the SoA nor the petitioner has filed details in the power purchase invoices and summary. Commission considered Rs.0.17 Crore as other income towards RRAS of NEEPCO in the absence of the details.

Therefore, the rebate on purchase of Energy projected as Other income for Rs.14.04 Crore does not require any Review.

D) INCLUSION OF INCLUSION OF AMORTIZATION OF GRANTS AND SUBSIDIES AND AMORTIZATION OF CONSUMER CONTRIBUTION AS PART OF NON-TARIFF AND OTHER INCOME

Petitioner's Submission

The Commission has approved Non-Tariff and Other Income as INR 118.98 Cr in the Impugned Order.

It is submitted that the Commission has, while calculating the Depreciation, adopted reduced the depreciation on the amount of Grants and Contributions available. In doing so, it failed to consider the amount of INR 25,15,49,561.52 against Amortization of Grants and subsidies and the amount of INR 2,89,32,682.35 against Amortization of Consumer Contributions that has already been considered as part of Non-Tariff and Other Income. The table of Depreciation approved is reproduced here in below:

Table 33: Approved Non-Tariff and Other Income for True-up of FY 2020-21

Sl. No	Particulars	For the Year ended 31st March 2021
	Non-Tariff Income (Note no.24)	
1	Meter Rent	6,21,45,212.19
2	Margin Payment Charges collected from consumers	-
3	Reconnection fees	1,33,950.00
4	DPS Collected from Consumers	1,87,00,960.30

5	Rebates on Purchase of Energy	14,03,52,188.00
6	Other charges from Consumers	15,41,63,461.49
	Sub Total	37,54,95,771.98
1	Cross Subsidy Surcharge (Note no.24.2)	17,27,32,481.00
	Sub Total- (A)	54,82,28,252.98
	Other Income (Note no.25)	
1	Interest on Deposits from Banks	3,90,10,449.85
2	From Others	32,031.00
3	Rental and Hiring Income	6,43,451.00
4	Fees and Penalties	51,699.68
5	Sale of scrap, tender forms and others	6,06,660.00
6	Miscellaneous receipts	7,25,27,200.79
7	Amortization of Grants and subsidies	25,15,49,561.52
8	Amortization of Consumer Contributions	2,89,32,682.35
9	Revenue Grants for Other Expenditure	17,78,89,000.00
	Sub Total- (B)	57,12,42,736.19
1	NEEPCO RRAS (C)	17,29,519.00
2	The Other Income from MeECL apportioned share reported in note no.21 of audited accounts (D)(Rs. 13131002.7 + Rs.5,55,15,143.00)	6,86,461,45.70
	Total (A+B+C+D)	118,98,46,653.87

It is submitted that the net depreciation is computed on the basis of the following heads:

- Computation of the depreciation on the basis of the Average GFA
- Depreciation on the available Grants and Contributions

Thus, the value of net depreciation is calculated by the computation of (a-b).

The Review Petitioner in its True-up petition had prayed the depreciation of INR 28.97 Cr. The computation of INR 28.97 Cr is depreciation on asset capitalized without considering Depreciation on Grants and Contributions. The corresponding Depreciation on Grants and Contributions was INR 28.04 Cr (addition of Amortization of Grants and subsidies and Amortization of Consumer Contributions), which was already accounted for under the head of Other Income, as mentioned in the true-up petition of the Review Petitioner. Therefore, the net depreciation to be considered against the Review Petitioner amounted to total of: INR 28.97 Cr - INR 28.04 Cr = INR 0.93 Cr. The relevant extract of the submissions made by the Review Petitioner in its true-up petition is as follows:

Table 22: Other Income in FY 2020-21 (INR Cr)

Sr. No.	Particulars	Actuals
A	Other Income	
	Interest Income: (Note 25 of MePDCL Accounts)	
	From Banks	3.90
	From Others	0.00
	Other non-operating income:	-
	Rental and Hiring Income	0.06

	Fees and Penalties	0.00
	Sale of scrap, tender forms and others	0.06
	Miscellaneous receipts	7.26
	Amortization of Grants and Subsidies	25.15
	Amortization of Consumer Contributions	2.89
B	Revenue Subsidies and Grant	
	R.E. Subsidies	-
	Revenue Grants for Other Expenditures	17.79
C	Other operating revenues-	
	Meter Rent	6.21
	Margin Money from Regulated Power	0
	Reconnection Fees	0.01
	DPS collected from Consumers	1.87
	Rebates on Purchase of Energy	14.04
	Other Charges From Consumers	15.42
	Cross Subsidy Surcharge	17.27
D	Apportioned Other Income from MeECL	6.86
	Total Other Income (A + B + C+D)	118.79

Note: Amortization of Grants and Subsidies of Rs. 25.15 crore and Amortization of Consumer Contribution of Rs. 2.89 crore are linked to the Depreciation depicted in Table 16 above. Any variation in the methodology of calculating the Depreciation, these amounts are liable for non-inclusion in the Other Income.

Considering claim of depreciation of Rs. 29.84 crores above, MePDCL, therefore prayed before the Hon'ble Commission to kindly approve the Other Income as Rs. 118.79 crore for True-up of FY 2020-21"

It is submitted that booking of total Depreciation and the Depreciation on Grants and Contributions is computed separately in the SOA as Note: - 1. Company Information and Significant Accounting Policies of the SOA, has spelt out the significant accounting policies that are applied to Depreciation/amortization, Capital work-in-progress & Government grants.

In particular, the sl 10 relating to Government Grants is reproduced hereunder:

"10. Government grants

a) Government grants received are recognized when there is reasonable assurance that the Company will comply with the conditions associated with the grant. Government Grants are classified as capital assets and revenue based on the nature of the grant.

b) Grants and Subsidies received for specific assets (property, plant and equipment) are disclosed as 'Grants and Subsidies' (Deferred Incomes) on the Liabilities side of the Balance Sheet as a separate

line item. They are amortized in proportion to depreciation on related assets (thereby, amortized based on the expected lives of the related assets), and presented within 'Other Income.'

c) The related assets herein primarily include Plant and Equipment, Lines and Cable Networks. There, Since the rates of depreciation as prescribed by the Central Electricity Regularity Commission (CERC) for the purpose of tariff are being followed by the Company, the same are being used for amortization of such related assets as well.

d) The rate so arrived at is 5.28% as per the CERC guidelines for the related assets mentioned. As seen from the operations during previous years, the creation of assets against capital grants received during the period generally take more than a year for completion. The same are thereby booked under capital work-in progress. Hence, grants and subsidies have been amortized at 5.28% of their opening balance for the reporting period.

e) Grants and Subsidies on Revenue Accounts are disclosed separately as Income in the Statement of Profit & Loss."

Further, the accounting principles followed by the Review Petitioner are as per IND-AS 20. As per the said accounting principle, government grants related to income are presented as part of profit and loss either separately or under a general heading such as 'Other income', alternatively, they are deducted in reporting the related expense. The Review Petitioner has considered the income approach under the IND-AS 20. Accordingly, the amortization of the same is stated under the heading Other Income.

"IND AS 20- Accounting for Government Grants and Disclosure of Government Assistance

12 Government grants shall be recognized in profit or loss on a systematic basis over the periods in which the entity recognizes as expenses the related costs for which the grants are intended to compensate.

13. There are two broad approaches to the accounting for government grants: the capital approach, under which a grant is recognized outside profit or loss, and the income approach, under which a grant is recognized in profit or loss over one or more periods.

16. It is fundamental to the income approach that government grants should be recognized in profit or loss on a systematic basis over the periods in which the entity recognizes as expenses the related costs for which the grant is intended to compensate. Recognition of government grants in profit or loss on a receipts basis is not in accordance with the accrual accounting assumption (see Ind AS 1, Presentation of Financial Statements) and would be acceptable only if no basis existed for allocating a grant to periods other than the one in which it was received.

In most cases the periods over which an entity recognizes the costs or expenses related to a government grant are readily ascertainable. Thus grants in recognition of specific expenses are recognized in profit or loss in the same period as the relevant expenses. Similarly, grants related to depreciable assets are usually recognized in profit or loss over the periods and in the proportions in which depreciation expense on those assets is recognized.

Presentation of grants related to income

29 Grants related to income are presented as part of profit or loss, either separately or under a general heading such as 'Other income'; alternatively, they are deducted in reporting the related expense."

However, contrary to the above the Hon'ble Commission in the Impugned Order has already taken into consideration the Depreciation on Grants while approving the Depreciation as -NIL- for True up of FY 2020-21, therefore the amount of Rs 25,15,49,561.52 against Amortization of Grants and subsidies and the amount of Rs 2,89,32,682.35 against Amortization of Consumer Contributions should not have been considered as part of Non-tariff and Other Income otherwise it tantamount to double Depreciation on Grants and Contributions.

Further, on bare perusal of the computation of Depreciation and Non Tariff and Other Income as approved by the Hon'ble Commission, the net Depreciation approved of INR 28.04 Cr is computed herein below:

1. Depreciation approved = INR Nil.
2. Less (a) Amortization of Grants and subsidies = INR 25,15,49,561.52
(b) Amortization of Consumer Contribution = INR 2,89,32,682.35
3. Net Depreciation approved =(-) INR. 28,04,82,243.87

It is submitted that by lessening the Depreciation on Grants and contributions available from Depreciation head, it implies that the Hon'ble Commission has again carried out amortization on the amount of Grants and Contributions available apart from the same submitted by the Review Petitioner under the heard Other Income. Thus, amortization has been done twice on the amount of Grants and Contributions available. As the methodology of calculating of Depreciation includes the reduction due to Depreciation on Grants and contributions available, the amount of INR 25,15,49,561.52 against Amortization of Grants and Subsidies and the amount of INR 2,89,32,682.35 against Amortization of Consumer Contributions, therefore, should not be considered as part of Other Income or the said

amount should be added back to the Depreciation and be considered as submitted by the Review Petitioner in its true-up petition under the Other Income head.

It is humbly submitted that the Hon'ble Supreme Court, in its judgment dated 18.10.2022 titled BSES Rajdhani vs. Delhi Electricity Regulatory Commission (2023) 4 SCC 788 has held that a tariff order is final and binding on the parties unless it is amended or revoked in terms of Section 64 of the Electricity Act or set aside by the Appellate Authority. The state commission, at the stage of 'truing up', cannot change the rules/methodology used in the initial tariff determination by changing the basic principles, premises and issues involved in the initial projection of the ARR. It held that the truing up exercise cannot retrospectively change the methodology/principles of tariff determination. Therefore, in this case also, the Hon'ble Commission erred in changing the basic principles by including the amortization of consumer contribution and government grants under both the heads i.e. calculation of depreciation and non-tariff income.

Commission's Analysis

The claim of the petitioner that Commission erred in changing the basic principles by including the amortization of consumer contribution and Govt. Grants under both the heads i.e., Calculation of depreciation and Non Tariff income cannot be maintained.

It may be observed that commission had notified the initial Tariff determination based on the estimated projections for the ensuing year. Whereas the Truing up process taken place after executing the Tariff Order considering the actual performance for the FY 2020-21 as per the Regulation 11.3 of MSERC MYT Regulations 2014.

Commission had computed the depreciation in accordance with Regulation 33.1 (a) of the MSERC MYT Regulations 2014 after deducting the depreciation on the Govt. grants and consumer contributions towards capital assets netting off the Amortization of Grants and contributions for Rs.28.04 Crore in the True up order dated 22.03.2023.

The Non-Tariff/other income as per the audited statement of accounts of MePDCL was at Rs.118.98 Crore which includes sum of Rs.28.04 crore towards Amortization of grants and Amortization of consumer contributions (Rs.25.15 Crore + Rs.2.89 crore).

The Govt. Grants and Contributions reported vide note no.17.1 of Statement of Accounts was computed excluding the amortization grants shown as deduction during the year for FY 2020-21 for Rs.28.04 Crore.

The depreciation has been computed excluding the Grants and contributions as per the Regulations which does not impact the depreciation allowed, as the amortization of Grants and Contributions has been deducted from the Gross value of available Grants and Contributions for computation of Depreciation in True up process for FY 2020-21.

In view of the above analysis, Commission considers No review of Depreciation is required for True up of FY 2020-21.

E) SALE OF SURPLUS POWER

Petitioner's Submission

The Hon'ble Commission has vide the Impugned Order approved INR 113.52 crore as revenue from sale of surplus power against the amount of INR 81.31 Cr disclosed in the Statement of Accounts. The relevant extract from the Impugned Order is reproduced below for reference:

"Sale of surplus power:

Commission approved Energy balance vide table no.07 of this order for which the breakup of sales under swapping and banking and sale outside the state is given below.

Particulars	InMU's	In MU's
Sale of Surplus power reported vide note no.24.1 & 24.3 (40.22 + 554.72)		594.94
Intra State Swapping	40.22	274.27
Outside State Swapping	234.05	
Surplus Energy sold in UI (DSM), IEX exchange and Non solar		320.67

Commission had determined the Rate of sale of surplus energy at weighted average cost of power purchase at Rs.3.30 Ps/Kwh in the approved ARR for FY 2020-21.

Now the weighted average cost of purchase has been approved at Rs.3.54 Ps/Kwh for True up vide table no. 11 of this order.

Thus the cost of surplus energy shall be priced at Rs.3.54 Ps/kwh for 320.67 MU sold in UI (DSM), IEX exchange and Non Solar which works out to Rs.113.52 Crore as against projected Revenue at Rs.81.31 Crore in the petition for True up.

Table 36 : Computation of Sale of Surplus Energy for True up of FY 2020-21

<i>Particulars</i>	<i>In MU's</i>	<i>Revenue Reported(In Rs.Cr)</i>	<i>Revenue Assessed (in Rs.Cr)</i>
<i>Surplus Energy as reported vide note no.24.1 & 24.3 (40.22 + 554.72)</i>	<i>594.94</i>		
<i>Intra State Swapping (40.22)</i>	<i>274.27</i>		
<i>Out Side State Swapping (234.05)</i>			
<i>Surplus Energy sold in UI (DSM), IEX exchange and Non solar</i>	<i>320.67</i>	<i>81.31</i>	<i>113.52</i>

Commission considers Revenue from Sale of Surplus Power at Rs.113.52 Crore for True up of FY 2020-21.”

It is humbly submitted that while approving INR 113.52 Crores as income from sale of surplus power, the Hon’ble Commission has considered the INR 3.54/ unit as the rate of energy unit sold in UI (DSM), IEX Exchange and Non-solar during the FY 2020-21. In this regard, it is to be noted that:

- (i) Energy is sold under the DSM the rate of sale of energy cannot be predetermined, therefore, calculation of surplus energy at any predetermined rate either INR 3.54 per unit or INR 3.30/ unit should not be allowed –
If actual drawl is greater than scheduled drawl, the difference is considered as net receivable of energy. However, the corresponding net amount can be negative or positive depending on various conditions. Besides, if the net amount is receivable, the actual amount received is less than the amount shown as receivable. The reason being that the net receivable and net payable should be equal. Therefore, the receivable is reduced proportionate to make it equal with the net payable and the revised actual amount received is the adjusted receivable. Therefore, it cannot be pre-determined as what should be the rate for sale.
- (ii) Sale of power in IEX, should not be considered at a predetermined rate-Power exchange is market driven and transparent and therefore should not be constrained by the selling rate. The Review Petitioner undertakes bulk sale in power exchange during monsoon period. If the rate at which power is to be sold is pre-determined, then during low market rate(s), the Review Petitioner would be compelled not to sell whatever surplus power it has. This in turn, based on merit order despatch principles where Central GSUs are given preference over State GSUs, the Generating units of Meghalaya Power Generating Company would have to be asked to back down their generation thereby leading to the loss of whatever available revenue.

(iii) The rate for sale of Bilateral sale of Non-solar power should be compared with Rs.3.30/unit-

It is humbly submitted that instead of INR 3.30/ unit which was the approved weighted average cost of power purchase in the ARR for FY 2020-21 dated 25.03.2020 in Case No. 04/2020, this Hon'ble Commission has considered the rate of sale of power at INR 3.54/ unit (approved weighted average cost of power purchase in the Impugned Order). This way the Hon'ble Commission has inflated the revenue from sale of surplus power through bilateral sale of non-solar power. Further, this way the Commission is considering a future rate, determined in 2021 for sale of power in 2020. Therefore, the Commission is rather penalizing the Petitioner for its efficiency by considering the rate of sale of power at INR 3.54/ unit.

(iv) It is humbly submitted that the Hon'ble Commission erred in considering Revenue from Sale of Surplus Power at Rs.113.52 Crore for True up of FY 2020-21.

Commission's Analysis

The petitioner has projected power purchase at 2481.18 MU net off system losses to cater the consumers of Meghalaya state for FY 2020-21. The average pooled cost amounted to Rs.3.54 ps/unit..

Commission has been notifying the petitioner to assess accurate estimation of Energy sales, assessment of Energy input requirement to determine the quantum of Energy to be purchased through the ARR and Tariff orders as per the Regulation 85 of MSERC MYT Regulations 2014.

Commission has been notifying through the directives to ensure optimum level of energy procurement in order to reduce the costs and tariffs, since there has been more than 1000 MU surplus power in the past 4 to 5 years which does not fetch even cost price in the UI exchange, IEX markets etc.,

As the power purchase cost for FY 2020-21 has been 86.18% of the total ARR and per unit realization of Revenue achieved was Rs.5.97 ps/unit as against the average cost to supply is determined at Rs.6.16 ps/unit. Thus there has been a loss of Rs.0.19 Ps/Unit from Energy sales which amounts to Rs.25.20 Crore.

In the circumstances, Commission considered that the petitioner should ensure sale of surplus power at Rs.3.54 ps/unit being the cost price in view of the persistent failure of the petitioner in reducing the distribution losses and to make sustainable operations, while protecting the interests of consumers of the state as per the Electricity Act 2003 and MSERC MYT Regulations 2014.

In view of the above analysis, No review of Sale of Surplus Power Revenue shall be considered for True up of FY 2020-21.

F) EMPLOYEE EXPENSES

Petitioner's Submission

The Hon'ble Commission vide the Impugned Order has erred by approving the Employee Expenses at INR 158.29 Cr as against the Review Petitioner's claim for Employee Expenses of INR 217.38 Cr for True up of FY 2020-21. It is to be noted that out of the total claimed amount, INR 53.18 crores were towards pension, gratuity, DCRG, pension contribution to deputations and INR 17.73 crores towards DCRG pension and pension contributions for apportionable MeECL employee expenses.

The Hon'ble Commission held that the claim of INR 53.18 Cr and INR 17.73 out of INR 22.31 Cr have been on the grounds that pension and other pension related expenses shall be born out of the Trust fund and hence, shall be met out of the trust funds.

At this juncture, it is pertinent to mention that for the implementation of "The Meghalaya Government Power Sector Reforms Transfer Scheme 2010" the Employee expenses of the Meghalaya Energy Corporation Limited ("MeECL") was divided into 3 subsidiaries i.e. MePGL, MePDCL and MePTCL, with MeECL as the holding company. All personnel then working with distribution function of the board stood deputed to MePDCL from MeECL.

It is humbly submitted that the issue of Employee Expenses was adequately addressed in the True-up Petition, the Review Petitioner could not produce the requisite document at the time of filing of the True-up Petition as the same was not available with the Review Petitioner at that point in time. However, the requisite document demonstrating the Pension Fund account of the MeECL Pension Trust for total terminal expenses during FY 2020-21 which could not be submitted previously, is now available with the Review

Petitioner and the same is being annexed with this Review Petition for consideration of this Hon'ble Commission and for proper determination of true-up. Copy of the Auditor's Report dated 06.05.2023 containing the details of the Pension Fund account of the Review Petitioner are annexed herewith and marked as ANNEXURE –II

In this regard, it is submitted that vide Auditor's report dated 06.05.2023, the Pension Fund account of the Review Petitioner for total terminal expenses during FY 2020-21 amounts to INR 56,84,38,391.70/- for apportionment of terminal benefits. The income and expenses of the MeECL Pension Trust and the expenses on terminal benefits for the Review Petitioner is stated below:

PARTICULARS	AMOUNT IN INR
MePDCL Expense	56,84,38,391.70
MeECL apportioned	6,31,59,821.30
Total	63,15,98,213.00

The Hon'ble Supreme Court of India in State of West Bengal v. Kamal Sen Gupta and Anr, (2008) 8 SCC 612 dated 16.06.2008 has held as under:

“14. At this stage it is apposite to observe that where a review is sought on the ground of discovery of new matter or evidence, such matter or evidence must be relevant and must be of such a character that if the same had been produced, it might have altered the judgment. In other words, mere discovery of new or important matter or evidence is not sufficient ground for review ex debitojusticiae. Not only this, the party seeking review has also to show that such additional matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the Court earlier.”

It is submitted that in terms of the provisions of Review under Section 94 of the Electricity Act, 2003, a court can exercise its review jurisdiction upon discovery of new and important documents which could not have been produced earlier despite exercising due diligence. In the True-up Petition, the Review Petitioner, despite exercise of due diligence, could not produce the abovementioned Auditor's report dated 06.05.2023. Further, it is submitted that the terminal liabilities obligations are legitimate expenses which are borne purely from its revenue from tariff and as per the actual outflows. Therefore, the Review Petitioner would like to revise its claim of employee expense as claimed in the true up petition and request the Hon'ble Commission to allow the INR 63.15 Cr expense which was disallowed in

the true up order. Hence, it is most respectfully prayed that the Hon'ble Commission review the Impugned Order to allow the amount pertaining to employee expenses as claimed by the Review Petitioner in light of the availability of the relevant documents.

The Review Petitioner has not filed any appeal or any other proceedings as on the date of filing of the present petition in regard to the Impugned Order.

The Review Petitioner craves leave of the Hon'ble Commission to add to, alter, amend or vary this Petition and grounds set out as and when necessary.

The present Review Petition is made bona-fide and in the interest of justice. The Review Petitioner would suffer irreparable loss and injury if the orders prayed for are not granted.

Commission's Analysis

Commission has already held discussions with the power utilities in connection with the employee expenses of the MeECL to be apportioned to the subsidiary corporations and decided to allow part of MeECL employee expenses in the True up process.

This willingness was strictly subject to immediate action on progressive funding of the pension trust.

Commission had allowed employee expenses related to serving employees who are on deputation to MeECL(Holding company) and directed that all the terminal benefits and pension related expenses of the retired employees shall be met from the Trust funds as per the Transfer scheme 2010.

The petitioner has submitted MeECL pension trust account certified by CA Ajay kumar Dadhich. The trust account dated 06.05.2023 reveals fund availability in the Trust for Rs.189.48 Crore.

The MeECL may be requested to direct the subsidiary corporations to fund the progressive contributions to pension Trust time to time and arrange for discharge of the pension liability and Terminal benefits.

Commission considers no review of the Employee expenses towards terminal benefits shall be considered for True up of FY 2020-21.

Table 3 : Revised Computation of Revenue at Existing Tariffs for Review of True up of FY 2020-21

Sl. No	Category	No. of Consumers	Connected Load (MVA)	KWH/ KVA	Energy (MU)	Total Revenue (Rs. Cr.)	Avg. Rate (Rs. Unit)
A)	LT Category						
1	Kutir jyoti (KJT)						
	Metered upto 30 units	226477	56.62	50957.33	81.53	29.76	3.65
	Excess over 30 units		1.22	1098	6.17	2.28	3.70
	Total Kutir Jyoti		57.84	52056	87.70	32.04	3.65
2	Domestic(DLT)	423589	457.62	411858	394.92	231.08	5.85
3	Commercial (CLT)	28170	85.7	77130	61.40	54.85	8.93
4	Industrial LT (ILT)	839	12.38	11142	4.55	4.33	9.53
5	Public Lighting (PL)	57	0.39	351	0.55	0.41	7.42
6	Water supply (WSLT)	369	7.88	7092	10.83	8.28	7.64
7	General Purpose(GP)	2481	15.38	13842	15.03	12.36	8.23
8	Agriculture (Ape)	23	0.28	252	0.14	0.07	5.16
9	Crematorium (CRM)	1	0.14	126	0.16	0.07	4.63
	Total LT Category					343.49	
B)	HT Category						
1	Domestic (HT)	87	21.15	21150	17.39	16.62	9.56
2	water supply	32	7.80	7800	28.11	20.42	7.27
3	Bulk Supply	169	44.88	44880	69.01	55.17	7.99
4	Commercial (HT)	250	33.62	33620	20.03	22.50	11.23
5	Industrial (HT)	126	86.20	86200	65.81	67.23	10.22
6	Ferro Alloys	3	9.93	9930	61.94	30.01	4.84
7	Special Tariff HT April 2020 to October 2020		42.80	42800	27.98	25.36	9.06
	Special Tariff HT Nov 2020 to March 2021				19.99	9.79	4.90
	Total HT Category					247.10	
C)	EHT Category						
1	Industrial	2	32.25	32250	43.64	35.96	8.24
2	Ferro Alloys	4	36.45	36450	363.01	167.02	4.60
3	Special Tariff EHT April 2020 to October 2020		25	25000	19.99	16.42	8.21
	Special Tariff EHT Nov 2020 to March 2021				14.27	6.99	4.90
	Total EHT Category					226.39	
	Grand Total	682672	977.69	934329	1326.45	816.98	6.16

Table 4 : Aggregate Revenue Requirement for Review of True up of FY2020-21

(Rs.Cr)				
Sl. No	Particulars	Approved in Tariff Order dated 25.03.2020	MePDCL Actuals	Approved for Review of True up
1	Power Purchase Cost	736.96	871.20	742.17
2	Transmission Charges (PGCIL)	58.98	103.55	95.73
3	Transmission Charges(MePTCL)	52.45	52.45	51.93
4	Employee Expenses	120.13	217.38	158.29
5	Repair & Maintenance Expenses	11.48	6.15	6.14
6	Administration & General Expenses	14.19	27.30	19.21
7	Depreciation	13.20	29.84	0.00
8	Interest and Finance Charges	6.58	101.66	11.00
9	Interest on Working Capital	17.83	20.76	19.47
10	Exceptional Expense	-	27.85	0.00
11	Return on Equity	13.77	119.60	0.00
	Total Expenses(A)	1,045.57	1,577.74	1103.94
12	Less: Non-Tariff and Other income incl. Cross subsidy Surcharge, NEEPCO RRAS and Revenue Grant for Other Expenditure	71.60	118.79	118.98
13	Less: Revenue from Sale of Surplus Power	325.33	84.56	113.52
	Sub Total(B)	396.93	203.35	232.50
	Net ARR (C =A-B)	648.64	1,374.39	871.44
14	Add: Revenue Gap for 2015-16	15.00	15.00	15.00
15	Add: Revenue Gap for 2016-17	173.44	173.44	173.44
16	Revenue Surplus for 2014-15	(12.96)	(12.96)	(12.96)
	Total ARR	824.12	1,549.87	1046.92
17	Less: Revenue from Sale of Power	824.12	711.71	816.98
	Net Gap/(Surplus)	-	838.16	229.94

Commission approves Net Gap at Rs. 229.94 Crore for Review of True up of FY 2020-21 and shall be appropriated in the next Tariff Order.

Sd/-
Shri. R.K. Soni, District Judge (Retd.)
Member

Sd/-
Shri. P.W. Ingty, IAS (Retd.)
(Chairman)