MSERC

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

Review of True up Order

For

FY 2011-12, FY 2012-13 and FY 2013-14

and

Provisional True up for FY 2014-15

For

MePDCL

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

1st Floor (Front Block Left Wing), New Administrative Building

Lower Lachumiere, Shillong – 793001

East Khasi Hills District, Meghalaya

In the matter of:

Review of true up order for FY 2011-12, FY 2012-13, FY 2013-14 and provisional True up for FY 2014-15 and revision of Tariff and Open Access Charges for FY 2016-17 of the Tariff Order dated 31.03.2016.

And

In the matter of:

Meghalaya Power Distribution Corporation Limited - **Petitioner**

(Hereinafter referred to as MePDCL)

Coram

WMS Pariat, IAS (Retd)

Chairman

ORDER

Date: 30.03.2017

This order relates to the petition filed by MePDCL seeking review of the true up orders for FY 2011-12, FY 2012-13, FY 2013-14 and provisional True up for FY 2014-15 and revision of Tariff and Open Access Charges for FY 2016-17 of the Tariff Order dated 31.3.2016.

I. True Up of FY 2011-12

In the petition dated 30.05.2016, the MePDCL has raised the following issue in respect of true up order for FY 2011-12.

Power Purchase Cost for FY 2011-12

Petitioners' submission

While reviewing the power purchase cost of FY 2011-12 in the impugned order, the Hon'ble Commission has considered the total power purchase cost of Rs. 431.20 Crore and the total late payment surcharge of Rs. 41.78 Crore, as per the CAG audit certificate. As such, the Commission has disallowed the late payment surcharge amount and deducted the same from the total power purchase cost of Rs. 431.20 Crore. Thus, the total power purchase amount approved in the review order dated 11th August 2015, has not been changed by the Commission from the approved figures of Rs. 389.38 Crore, as against the proposed figure of Rs. 431.2 Crore.

However, the CAG report on the accounts of FY 2011-12, clearly states that the surcharge amount of Rs. 41.78 Crore considered by the Commission is not included in the total power purchase amount booked by MePDCL, which is Rs. 431.20 Crore. As such, it would not be correct to reduce the power purchase amount of Rs. 431.20 Crore by the late payment surcharge amount of Rs. 41.78 Crore, since the amount is not included in the booked amount of power purchase cost. In this regard, the relevant observation of CAG report is reproduced hereunder:

"4 (b) Purchase of Power (Note no. 24): Rs. 43,119.56 Lakhs

The above is understated by INR 41.78 Cr. being the surcharge payable to NEEPCO for the outstanding dues for power purchase up to FY 2011-12 with corresponding understatement of Loss for the year by the same amount."

A copy of the relevant section of the CAG report is attached as Annexure for reference.

Based on the above submissions, MePDCL requests the Commission to kindly consider the amount of power purchase cost of Rs. 431.20 Crore and approve the same since it is exclusive of late payment surcharge of Rs. 41.78 Crore.

Further, the earlier approved figures of Rs. 389.38 Crore were provisional and subject to final audit of power purchase amount. Now, when MePDCL has completed the audit of power purchase amount and also completed the CAG audit of the accounts of FY 2011-12, it is requested that the final booked amount of Rs. 431.20 Crore be considered now, since the same is in line with the audit certificates reproduced before the Hon'ble Commission. As such, the Hon'ble Commission is requested to kindly allow the additional amount of Rs. 41.82 Crore (431.20 crore – 389.38 crore) under this review petition.

Commission's Analysis and Orders

i) The Commission had allowed Rs. 347.98 Crore as Power Purchase cost for an approved energy purchase of 1135.51 MU for FY 2011-12 in the T.O. dated 20.01.2012. The approved Power Purchase cost includes Rs. 48.00 Crore towards Transmission and Wheeling charges. The Commission held that any variation in the power purchase beyond 5% of the bill, the MeECL will take prior approval of the Commission.

ii) The Commission had passed an order on 31.03.2015 and allowed Rs. 389.38 Crore towards Power Purchase Cost in the True-up exercise for FY 2011-12 pending the certification by C&AG. It was held that the Licensee had not submitted the source wise quantum of Power drawn for FY 2011-12 against details of Power Purchase bills excluding the delayed payment surcharge paid as asked for, by the Commission. The licensee had drawn 1684.49 MU as against approved quantum of 1135.51 MU and claimed Rs. 431.20 Crore against Rs. 347.98 Crore approved in the Tariff Order dated 20.01.2012.

iii) The Commission also observed that the Power Purchase dues related to prior period at Rs. 80.87 Crore as per the detail of power purchase furnished on 30.06.2015 for Review. However, the quantum of energy drawn was not furnished. The Commission had approved in the Tariff Order dated 20.01.2012, the quantum of Power from NEEPCO at 655.52 MU (which includes 76.98 MU free power) for Rs. 131.61 Crore as projected by the Licensee. The Licensee had not explained the reasons for variation in the cost of power paid at Rs. 189.19 Crore which is 43.75% in excess over the approved cost (Rs. 189.19 Crore – Rs. 131.61 Crore) by Rs. 57.58 Crore to NEEPCO for FY 2011-12.

iv) The Commission had in the True up Order dated 31.03.2015 held that in spite of repeated reminders, the supplementary bills of arrears are not produced. While examining the bills of the current year (Q1), the Commission found that late payment surcharge;

supplementary bills are of the tune of Rs. 53.00 Crore which relates to FY 2007-2009 and so on (which shall not be considered for determination of tariff for FY 2011-12).

v) It was informed by the Licensee that there are pending arrears of Power Purchase (Principle amount of Rs. 283.23 Crore and late payment surcharge of Rs. 108.42 Crore) towards NEEPCO. Considering the above statement and in the absence of proper records, the Commission had allowed Rs. 389.38 Crore for true up of FY 2011-12 in the Order dated 31.03.2015 which includes Rs.53.38 Crore towards transmission and wheeling charges.

vi) The Licensee was given ample time to submit the information but the utility had failed to submit the required additional data, but filed another petition claiming the Power Purchase Cost at Rs. 431.20 Crore on 28.05.2015 seeking review orders for FY 2011-12.

vii) The Commission had disposed the second review petition on 11.08.2015 and confirmed the Power Purchase cost already approved at Rs. 389.38 Crore. Again Licensee had submitted 3rd petition for adjustment of true up gap for FY 2011-12 on 05.01.2016. The C&AG audit report for FY 2011-12, dated 19.06.2015 is submitted by the Licensee on 08.02.2016. The Commission had disposed the 3rd petition for review and adjustment of gap for FY 2011-12 on 31.03.2016.

viii) The Commission had approved the Power Purchase cost at Rs. 389.38 Crore considering the data gaps and licensee's failure to submit the additional information required in the earlier true up orders dated 31.03.2015 and 11.08.2015. The claim by the Petitioner that the Commission had disallowed power purchase amount by Rs. 41.78 Crore as late payment charges as per C&AG Report is not correct. The Commission had apprehension that power purchase cost includes late payment charges and supplementary bills for the past periods which cannot be considered for determination of Tariff for FY 2011-12. In the absence of additional information, the Commission had limited the power purchase cost as approved in the earlier orders.

ix) Regulation 93 of MSERC stipulates the power procurement procedures which are to be followed by the Licensee for determination of tariffs for retail sales. Guidelines were also issued in the Tariff Orders for FY 2011-12 on 20.01.2012 to be observed while resorting to short time bilateral purchase by obtaining prior approval of the Commission. Licensee had not complied with the directions of the Commission for providing the details of Power Purchase bills nor convinced the Commission as required in the Reg. 15(7) of MSERC Regulations, 2011.

x) The licensee has still not been able to produce the actual power purchase bills with reference to power purchased for the FY 2011-12 in support of the claim for Rs. 431.20 Crore.

xi) Regulation 22 (i) (a) (b) reads as follows:

"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 from the date of the tariff order, and / or there is an error apparent on the face of the record.

b) The Commission observed that the Petition filed by the Licensee seeking review is within the Reg. 22 (i) (a) (60 days of orders by the Commission).

c) The Commission observes that there is no error apparent on the face of the record in respect of the claim (Power Purchase expense)."

The Commission has once again called for the copies of the power purchase bills against the claim of Rs. 431.20 Crore in view of the fact that C&AG has furnished its Audit Report.

The licensee has submitted a summary of the power purchase bills along with copies of some bills vide Letter No. MePDCL/DD/T.444 (Pt-V)30, dated 30.06.2016, which were not made available along with the review Petitions filed in the previous occasions.

The Commission while considering the review Petition dated 30.06.2016 has under taken the verification/analysis and observed the following over lapping/in-consistencies and omissions.

(a) The licensee has submitted vide Letter No. 4 (iii) 2015-16/36 dated 30.06.2015 the summary of power purchase bills related to various suppliers/generators. The summary also included for prior period bills at Rs. 80.87 Crore. The abstract of the summary reads as detailed below:

Statement-I

(Rs. Crore)

Sl. No.	Source	Power Purchase Bills	Prior Period
1	NTPC	102.73	7.50
2	POSOCO Ltd	0.76	0.28
3	NVVN Ltd	2.64	0.31
4	NHPC	15.92	-
5	PTC	-	0.09
6	PGCIL	52.49	6.74
7	NEEPCO	163.14	48.27
8	SCF	3.32	-
9	UI	-	17.67
10	**Total**	**341.00**	**80.87**

The analysis of latest summary dated 30.06.2016 revealed as follows:

(b) **NEEPCO**

Licensee had in the summary submitted on 30.06.2015, mentioned power purchase bills of NEEPCO at Rs. 163.14 Crore plus Rs. 48.27 Crore as prior period bills. Whereas the details submitted on 30.06.2016 reveals only power purchase bills for FY 2011-12 at Rs. 163.14 Crore only. Further, Rs. 1.12 Crore rebate to be availed vide Invoice Nos. 33,36,37,38,40,41,44,47,48,51 and 52 is not deducted from the admissible cost.

Licensee has claimed Rs. 189.19 Crore to be admitted in the petition for Review. The claim is found admissible at Rs.162.02 Crore as per the details made available on 30.06.2016.

(c) <u>NHPC</u>

Licensee had submitted the power purchase details of Rs. 15.92 Crore in the summary dated 30.06.2015 and no prior period dues are disclosed in the details. This includes 2% rebate for Rs. 14.08 Lakh for timely payment which shall be deducted.

(d) <u>PGCIL</u>

The licensee has furnished the summary of PGCIL charges for Rs. 52.49 Crore vide letter dated 30.06.2016. The details submitted for Rs. 6.53 Crore does not disclose the period to which they related to. Thus claim shall be admissible for Rs.52.49 Crore as per the details.

(e) <u>NTPC</u>

The licensee has submitted summary of the Power purchase details for Rs. 102.73 Crore vide their letter dated 30.06.2016. No invoices are made available. The claim for Rs.102.73 Crore is found to be admissible.

(f) <u>UI (Inter-state)</u>

Licensee has submitted the details summary of UI (Inter State) charges for Rs.52.17 Crore which included surcharge for Rs.2.06 Crore in the statement dated 30.06.2016. The claim for Rs.50.11 Crore is found admissible as per the details.

(g) <u>M/s. Shyam Century Ferrous Ltd.</u>

Licensee has submitted 3 Nos. Invoices details of M/s Shyam Century Ferrous Limited for Rs. 6.93 Crore for power supplied during the FY 2011-12 is found admissible.

(h) <u>NERLDC Pool</u>

NERLDC pool accounts showed a sum of Rs. 0.11 Crore for FY 2011-12 as per the schedule between MeSEB- ASEB excluding receivables found admissible.

(i) POSOCO

Licensee has submitted Invoices raised by M/s POSOCO towards NERLDC fees and charges for FY 2011-12 for Rs. 0.76 Crore which includes Rs. 0.05 Crore prior period charges found admissible.

The interest charges on overdue payable on UI charges for Rs. 206.84 Lakh shall not be admissible:

(j) NVVN Ltd.

The licensee has submitted the details of NVVNL vide letter dated 30.06.2016 towards Open Access charges and energy charges for FY 2011-12 for Rs. 2.63 Crore. The claim also includes Invoice No. FY 2010-11/01, dated 12.05.2011 for Rs. 3.48 Lakh towards surcharge shall be excluded and Rs. 2.60 Crore found admissible.

The licensee vide letter dated 30.06.2016 has submitted the breakup for Rs. 431.20 Crore as against which admissible claim is detailed below:

Statement-II

(Rs. Crore)

Sl. No.	Source	As per statement dated 30.06.2016	Admissible claim as per details furnished FY 2011-12	Rebate/ Surcharge	Total
1	NEEPCO	189.19	162.02	1.12	163.14
2	NHPC	23.87	15.78	0.14	15.92
3	PGCIL	52.24	52.49	0.00	52.49
4	NTPC	103.01	102.73	0.00	102.73
5	UI (Inter State)	52.21	50.11	2.06	52.17
6	UI (Intra State SLDC)	0.46	0.00	0.00	0.00
7	NVVNL	2.39	2.60	0.04	2.64
8	NERLDC Pool	0.12	0.11	0.00	0.11
9	SCF	6.93	6.93	0.00	6.93
10	POSOCO	0.77	0.76	0.00	0.76
11	PTC (IEX)	0.00	0.00	0.00	0.00
12	**Total**	**431.19**	**393.53**	**3.36**	**396.89**

In the Commission's Review Orders dated 11.08.2015 the licensee was directed to submit Auditors report on power purchase cost and abstract of station-wise power purchase bills showing the bill amount and penalty amount separately. MePDCL has failed to submit the audit report.

From the statement of details/analysis therein the claim of the licensee found admissible at Rs.393.53 Crore but due to inconsistency in the data, non submission of invoices/double entry and surcharge details as observed by C&AG for Rs. 41.78 Crore, the Commission does not consider review of the Power Purchase expenditure of Rs. 393.53 Cr for FY 2011-12 approved in the Tariff Order for FY 2016-17.

II. Truing up of FY 2012-13

Petitioner's Submission
Return on Equity

It is submitted that the return on equity is computed as per Regulation 100 and 101 of the Tariff Regulations, 2011. The relevant provisions are reproduced below:

"Debt-equity Ratio

For the purpose of determination of tariff, the debt-equity ratio of 70:30 will be applied for all new investments during the financial year. Where equity employed is more than 30%, the amount of equity for the purpose of tariff shall be limited to 30% and the balance shall be treated as loan. Where actual equity employed is less than 30%, the actual equity shall be considered.

Provided that the Commission may, in appropriate case, consider equity higher than 30% for the purpose of determination of tariff, where the distribution licensee is able to establish to the satisfaction of the Commission that deployment of equity more than 30% is in the interest of general public.

The debt and equity amounts in accordance with clause (1) above shall be used for calculating interest on loan, return on equity, advance against depreciation and foreign rate variation.

Return on Equity

Return on equity shall be computed on the equity base determined in accordance with Regulation 100, at a fixed rate of 14 percent, per annum.

Provided that equity invested in a foreign currency may be allowed a return up to the prescribed limit in the same currency and the payment on this account shall be made in Indian Rupees based on the exchange rate prevailing on the due date of billing. The difference in actual exchange rate and the provisional exchange rate considered while determining the ARR shall be taken into consideration at the time of 'Truing up'.

The equity amount appearing in the audited Balance Sheet or as per Transfer Scheme Notification will be taken into account for the purpose of calculating the return on equity for the first year of operation, subject to such modifications as may be found necessary upon audit of the accounts if such a Balance Sheet was not audited."

As per the above provisions of Tariff Regulations, 2011, the actual Return on Equity has been computed based on an Equity of INR 1573.86 Crore as per the Audited Statement of Accounts of FY 2012-13. Return on Equity (ROE) of Rs 239.28 Crore is proposed in the true up as against approved ROE of Rs.28.28 Crore. The Calculation arrived is given in the Table below:

Table 1: Projected Return on Equity for FY 2012-13

Particular (FY 12-13 Actual)	**MePGCL**	**MePTCL**	**MePDCL**	**Total**
Opening Equity (Rs. Crore)	610.29	221.26	742.32	1573.86
Additions during the Year (Rs. Crore)	59.89	88.92	34.03	182.84
Closing Equity (Rs. Crore)	670.17	310.18	776.35	1756.70
Equity (Rs. Crore)	670.17	268.99	769.98	1709.14
RoE %	14.00%	14.00%	14.00%	14.00%
Return on Equity (Rs. Crore)	**93.82**	**37.66**	**107.80**	**239.28**

The Petitioner now requests Hon'ble Commission to allow additional claim of Rs. 211.00 Crore over and above the approved Rs. 28.28 Crore as Return on Equity.

Commission's Analysis

The Commission in the True up orders dated 31.03.2016 held that as per the Government of Meghalaya (Fourth Amendment) notification dated 29.04.2015 equity capital is pending allotment. This has also been disclosed in the statement of Accounts submitted by the licensee for FY 2012-13 vide note 3 as equity Capital pending allotment (Rs. 7,76,35,11,198/-)

As per the Regulation 101 (2), the equity amount appearing in the audited balance sheet or as per Transfer Scheme notification will be taken into account for the purpose of calculating the return on equity for the first year of operation, subject to such modifications as may be found necessary upon audit of the accounts if such balance sheet was not audited.

The Licensee has carried out Generation, Transmission and Distribution business for the FY 2012-13 combined.

The GFA held in the Books of Accounts as on 01.04.2012 and additions during the FY 2012-13 is as detailed in the Table below.

Table 2: GFA for combined utility

MePDCL	Rs. 229.61 Crore
MePGCL	Rs. 303.80 Crore
MePTCL	Rs. 63.37 Crore
Total	Rs. 569.78 Crore
Additions	Rs. 251.33 Crore
Closing Balance	Rs. 848.11 Crore

The licensee has claimed opening Equity at Rs 1573.86 Crore as per the transfer scheme notified by the Government of Meghalaya dated 29.4.2015 and additions during the FY 2012-13 claimed at Rs 182.84 Crore while Computing Return on Equity at Rs.239.28 Crore for review of true up orders for the FY 2012-13.

The Commission observed that Equity Capital projected does not correspond with the assets base of undivided utility which is at Rs. 848.11 Crore and has not not explained how the equity amount is arrived at.

The Commission would like to refer to the APTEL Judgement dated 17.12.2014 in Appeals No. 142 and 168 of 2013, between Mawana Sugar Ltd VS PSERC and other, and the relevant paragraph is reproduced hereunder:

"38. Admittedly, the Transfer Scheme as notified by the State Government is not under challenge. However, the State Commission is authorized to carry out a prudence check of the balance sheet. This Tribunal in the past has held that the State Commission is not bound to accept the figures as given in the audited balance sheet in to and can determine the return on equity and other expenses after prudence check. <u>In this case, there was no induction of fresh funds and the equity as on the date of transfer has been increased from Rs. 2946.11 crores to Rs. 6687.26 crores</u>. The increase as explained by PSPCL in their letter dated 26.2.2013 is on account of treating the consumer contribution and grants and subsidies towards the capital assets as standing in the audited accounts of the Electricity Board as equity. In our opinion, the State Commission should have allowed return on equity on the actual equity of Rs. 2946.11 crores to be apportioned to PSPCL and PSTCL."

The Commission in the circumstances, considers as per the Books of Accounts, the equity capital shall be Computed on the Gross Fixed Assets and additions during the year to be compliant with the requirement of Regulation 100 of MSERC Regulation, 2011. Accordingly, the Equity Capital and Return on Equity is computed in the Table given below:

Table 3: Approved Equity and Return on Equity

GFA as on 01.04.2012	Rs. 596.78 Crore
Addition during the year 2012-13	Rs. 251.33 Crore
GFA as on 30.03.2013	Rs. 848.11 Crore
Debt: Equity Ratio as per the Regulation 100	70:30
Amount of Debt	Rs. 593.67 Crore
Amount of Equity	Rs. 254.43 Crore
Return on equity at 14%	Rs. 35.62 Crore

The Commission approves Rs. 35.62 Crore towards Return on Equity in the Review for FY 2012-13.

Revenue from Sale of Power outside the State

Petitioner's Submission

In FY 2012-13, MePDCL had a total surplus of 144.17 MU which was sold at an average rate of Rs. 1.75/kWh depending upon the market rates which were prevailing at that point of time. However, the Commission has considered the sale of 144.17 MU at a deemed rate of Rs. 3/kWh and as such considered an additional deemed revenue of Rs. 18.02 Crore.

In this context, MePDCL would like to submit that the power availability for MePDCL is mainly from hydro sources which in turn depend largely on the amount of rainfall received. As such, a large amount of surplus power which is available for MePDCL is not fixed and varies greatly depending on the weather and rainfall. During the last few years, the monsoon has been erratic in respect of intensity and distribution. This restricts MePDCL to enter into bilateral contracts which requires a fixed commitment to supply during a specified period. However, MePDCL is not in a position to commit surplus/deficit availability in advance. As such, the surplus availability is sold mainly through day-ahead exchange markets, through swapping or through Unscheduled Interchange / Deviation Settlement Mechanism (UI/DSM). It may also be stated that drawal of power through UI/DSM is unavoidable. Furthermore, on many occasions, we are compelled to sell power at short notice due to extreme weather conditions like storms, heavy rainfall causing damage to distribution lines and sudden load crash. Under this situation, the average rate of per unit revenue is totally dependent on the market and as such, it is not justified to assume a deemed rate of Rs. 3/kWh for sale of power outside the State and instead the actual rate should be taken.

Further, it is important to note that the total sale of surplus power at an actual rate of Rs. 1.75/kWh, includes swapping wherein the power is not sold directly but rather swapped for an equal quantum of power to be purchased at some other period of time. The energy charges are not incurred for swapping arrangements, however only transmission, wheeling charges and losses apply. In other words, there is no revenue earned for supply of power nor there is any cost required to be paid for purchase of power under swapping arrangement other than transmission, wheeling charges and losses. This is also reflected in the low cost of power purchased through swapping.

It is pertinent to note that the average rate of short term power purchased in FY 2012-13 was Rs. 2.07 per unit for a total quantum of 270.85 MU. This is much lower than the approved power purchase cost of Rs. 4/kWh, as approved by the Hon'ble Commission in the order dated 20th January 2012. However, in the impugned true-up order dated 31st March 2016, the Hon'ble Commission has considered the actual rate of Rs. 2.07 per unit for approving the power purchase cost and the benefit of reduced power purchase rate has already been passed on to the consumers. The actual rate of Rs. 2.07 per unit has been achieved because a significant quantum of power has been purchased through swapping arrangements, which in turn is linked to the low rate of per unit revenue realized from sale of surplus power.

As such, it is not justified to consider the effect of swapping in a lower rate of power purchase and pass the benefit to the consumers under power purchase, and at the same time, penalize the licensee for a low rate of per unit revenue from sale of surplus power. The rate of short term power purchase and sale are low since it includes a substantial quantum of swapping arrangement. In this regard, MePDCL is submitting the breakup of quantum of power sold through swapping, UI, IEX, bilateral etc. for kind consideration of the Hon'ble Commission. The breakup of revenue from short term sale is as submitted below. From the Table, it is observed that the average rate of short term power sold (excluding swapping) is Rs. 2.93 per unit which is close the approved norm of Rs. 3 per unit.

Sl. No.	Source	Quantum of power sold in FY 2012-13 (MU)	Total Cost (Rs. Crore)	Average rate of power sold (Rs./kWh)
1	Bilateral	0.00	0.00	-
2	Swapping	56.63	0.00	0.00

Sl. No.	Source	Quantum of power sold in FY 2012-13 (MU)	Total Cost (Rs. Crore)	Average rate of power sold (Rs./kWh)
3	IEX	28.91	8.83	3.05
4	UI/DSM	58.63	16.40	2.80
	Total	**144.17**	**25.23**	**1.75**

In view of the above submissions and the data submitted, we request the Hon'ble Commission to kindly review the decision of considering deemed revenue of Rs. 18.02 Crore and consider the revenue from short term sale of surplus power as per actuals.

Commission's Analysis

The Commission in the Tariff Order dated 20.01.2012 for the FY 2012-13 had approved the average power purchase cost at Rs. 2.78/kWh for procurement of 1272.27 MU from various generators. The Commission had approved Rs. 4/kWh for purchase of power from other sources. The licensee has sold surplus power outside state for a less than average purchase price.

The licensee had purchased 270.85 MU in the bilateral process without the prior approval of the Commission, in deviation of the directions issued in the Tariff Order dated 20.01.2012 and deviation of Regulations 93 (1) of MSERC Regulations 2011.

The Licensee should optimize the power purchase, fore-casting the requirement for ensuing year on monthly basis and properly capture the seasonality in demand as per Regulations.

The Commission expects that the licensee shall follow the Regulations formulated which are mandatory while adopting the performance parameters, laid down in the Regulations.

The Commission considering the submission of Licensee in the review Petition approved the sale of surplus power outside state as projected at Rs. 1.75/kWh under the circumstances explained by the Petitioner. Accordingly, the revised ARR as given below is considered for FY 2012-13.

Table 4: ARR for FY 2012-13 (Provisional) Review

Sl. No.	Particulars	Approved for True up (Rs. Crore)	Claimed for Review (Rs. Crore)	Now approved (Rs. Crore)
1	Cost of Power Purchase	299.42		299.42
2	R&M Expenses	15.00		15.00
3	Employee Cost	183.97		183.97
4	A&G Expenses	8.73		8.73
5	Depreciation	31.64		31.64
6	Interest and Finance Charges (including working capital)	50.70		50.70
7	Return on Equity	28.28	239.28	35.62
8	**Gross ARR**	**617.74**	**239.28**	**625.08**
9	Less: Non Tariff Income	103.57		103.57
10	Les: RE Subsidy	10.37		10.37
11	Less: Amortisation	7.19		7.19
12	**Net ARR**	**496.61**		**503.95**
13	Revenue from Tariffs	464.53	446.50	446.51
14	Penalty for AT&C losses	16.75		16.75
15	**Net Gap/Surplus**	**15.33**		**40.69**

III. Truing up of FY 2013-14

Return on Equity

Petitioners Submission

It is submitted that the return on equity is computed as per Regulation 100 and 101 of the Tariff Regulations, 2011. The relevant provisions have been produced earlier in the above clauses.

As per the above provisions of Tariff Regulations, 2011, the computation of Return on Equity is shown below:

(Rs. Crore)

Sl. No.	Particulars	Approved	Actual	Additional Claim
1	Opening Equity for the Year	67.33	776.40	
2	Closing Equity for the Year	67.33	786.40	
3	Average Equity for the Year	67.33	781.40	
4	Rate of return	14.00%	14.00%	
5	**Return on Equity**	**9.43**	**109.40**	**99.97**

It is submitted that the Hon'ble Commission had allowed return on equity of Rs. 9.43 Crore considering Rs. 202.00 Crore equity to all three entities. As such, the petitioner requests the Hon'ble Commission to kindly review the return on equity and approve the same as Rs. 109.40 Crore as per the Audited Statement of Accounts. In this context, it may be noted that the pending allotment of shares as reflected in the balance sheet of FY 2013-14 has already been converted into paid up shares in FY 2015-16.

Commission's Analysis

The Commission observed that equity capital projected does not correspond with the assets base of undivided utility for fulfillment of Regulations.

The Commission would like to refer to the APTEL judgment dated 17.12.2014 in Appeals No. 142 and 168 of 2013 between Mawara Sugar Ltd Vs PSERC and others, and the relevant paragraph of the above Judgement has been reproduced for the analysis of review of true up for FY 2012-13 in the Page No. 12 of this Order.

The Commission in the circumstances considers the figures as per the books of accounts and the equity capital shall be computed on the gross fixed assets and additions during the year to be compliant with the requirement of Regulations.

The Generation and Transmission utilities have been functioning separately with effect from 01.04.2013. The equity capital considered for undivided utility for FY 2012-13 has been segregated based on the opening GFA of three utilities as appeared in the statement of Accounts for FY 2013-14. The GFA for MePDCL is considered at Rs. 321.84 Crore and equity capital arrived at Rs 97.31 Crore for FY 2013-14 in the ratio of 70:30.

Accordingly the return on equity is computed in the Table given below:

Table 5: GFA & Return on equity for FY 2013-14 (MePDCL)

(Rs. Crore)

Particulars	Amount
GFA as on 31.3.2013	321.84 Cr
Additions during the year 2013-14	2.53 Cr

Particulars	Amount
Closing GFA	324.37 Cr
Debit equity Ratio	70:30
Debit	227.06 Cr
Equity	97.31 Cr
Return on equity at 14%	Rs. 13.62 CR

The Commission approves Return on equity at Rs. 13.62 Crore in the review for the FY 2013-14.

Depreciation

Petitioners Submission

While allowing depreciation for FY 2013-14, the Hon'ble Commission has calculated the depreciation based on the asset base booked in the audited accounts and subtracted the depreciation from the assets funded through grants and consumer contribution as per Regulation 78 of MSERC Tariff Regulations 2011.

However, the total value of assets funded through grants and consumer contribution, which is calculated as Rs. 111.1 Crore, is not matching with the average booked value of grants and consumer contributions as per the audited accounts of FY 2013-14. Since, the total asset base taken by the Commission is as per the average value of gross fixed assets booked in the accounts (which is Rs. 322.8 Crore) of FY 2013-14, the value of assets funded through grants and consumer contribution should also match with the average value of grants and consumer contribution as per the audited accounts of FY 2013-14. As per the audited accounts of FY 2013-14, the average amount of grants and consumer contribution is calculated below:

(Rs. Crore)

Sl. No.	Particulars	As on 31.03.2013	As on 31.03.2014	Average value in FY 2013-14
1	Grants and subsidies of MePDCL	60.83	77.47	69.15
2	Consumer Contribution of MePDCL	17.85	23.40	20.63
3	1/3 of Grants and subsidies of MeECL	0.00	0.00	0.00
	TOTAL	**78.68**	**100.87**	**89.78**

As such, the average value of grants and consumer contribution is coming as Rs. 89.78 Crore as against Rs. 111.1 Crore used by in the impugned order. The Hon'ble Commission is requested to review the calculation for depreciation on grants and consumer contribution and consider the same as provided below as per accounts:

Sl. No.	Particulars	Amount (Rs. Crore)
1	Average Assets funded through grants and consumer contribution in FY 2013-14	89.78
2	Average rate of depreciation (same as considered by the Commission in the impugned order)	4.73%
3	Actual deduction of depreciation on assets funded through grants and consumer contribution (=1*2)	4.25
4	Depreciation on Grants and consumer contribution considered by the Commission	5.26
5	**Additional Depreciation claimed under the review petition (4-3)**	**1.01**

Commission's Analysis

As per the audited statement of accounts depreciation as per (profit & loss account) note 23 net of amortization is reported at Rs. 11.50 Crore. Adding the 1/3rd share of MeECL for Rs. 0.26 Crore MePDCL claimed Rs. 11.76 Crore for true-up of FY 2013-14, projecting GFA at Rs 356.82 Crore for which details are not made available.

As per Regulation 78, the Commission approved depreciation at Rs. 10.00 Crore for true-up of FY 2013-14, after deducting the value of assets created with the Grants and consumer contributions as per the Table 5.5 of Tariff Order dated 31.03.2016. The Commission after prudent check of the details, the Depreciation has been reworked as per the Table below:

Table 6: Approved Depreciation for FY 2013-14 Review True up

Sl. No.	Particulates	As on 31.03.2013	As on 31.03.2014	Average
1	**Grants and subsidies**	**60.83**	**77.47**	**69.15**
2	**Consumer Contribution**	**17.85**	**23.40**	**20.63**
3	**1/3 Grants and subsidies of MeECL**	**-**	**-**	**-**

Sl. No.	Particulates	As on 31.03.2013	As on 31.03.2014	Average
	Total	**76.68**	**100.87**	**89.78**
Average Grants and Subsidies				Rs. 89.78 Cr
Depreciation approved for the FY 2013-14				Rs. 15.26 Cr
Deduction of Depreciation on the Average Grants and contributions at 4.73% (89.73X4.73%)				Rs. 4.25 Cr
Depreciation to be allowed in the Review for FY 2013-14				Rs. 11.01 Cr

The True up orders for FY 2013-14 were considered as provisional by the Commission, (in the absence of C&AG Audit Report) and are subject to re-adjustment after filing of the Petition along with C&AG report. The Commission in its approach vide Para 1.6 Page No. 7, 8 and 11 of Tariff Orders dated 31.03.2016 had mentioned categorically, that the true up orders approved are interim and subject to revision on filing of C&AG audit report. The licensee shall comply with the directions of the Commission.

The Commission considers Depreciation for FY 2013-14 in the Review exercise at Rs. 11.01 Crore.

Revenue from Sale of Power Out Side State

Petitioners Submission

Similar to FY 2012-13, MePDCL had a total surplus of 309.52 MU in FY 2013-14 which was sold at an average rate of Rs. 1.26/kWh depending upon the power exchange rates which were prevailing at that point of time and which is beyond the control of MePDCL. However, the Commission has considered the sale of 158.97 MU (units sold except banking) at a deemed rate of Rs. 3.60/kWh (as against the actual rate of Rs. 2.46/ kWh) and as such considered an additional deemed revenue of Rs. 18.09 Crore.

In this context, MePDCL would like to re-iterate that the power availability for MePDCL is mainly from hydro sources which in turn depend largely on amount of rainfall received. As such, a large amount of surplus power which is available for MePDCL is not fixed and varies greatly depending on the weather and rainfall. It may also be stated that drawal of power through UI/DSM is unavoidable. Furthermore, on many occasions, we are compelled to sell power at short notice due to extreme weather conditions like storms, heavy rainfall causing damage to distribution lines and sudden load crash. This restricts MePDCL to enter into bilateral contracts which requires a fixed commitment to supply during a specified period. However, MePDCL is not in a position to commit surplus availability in advance. As such, the surplus availability is sold mainly through day-ahead exchange markets, through swapping or through Un-scheduled Interchange/Deviation Settlement Mechanism (UI/DSM). Under this situation, the average rate of per unit revenue is totally dependent on the market and as such, it is not justified to assume a deemed rate of Rs. 3.6/kWh for sale of power outside the state and instead the actual rate should be taken.

In view of the above submissions, we request the Hon'ble Commission to kindly review the decision of considering deemed revenue of Rs. 18.09 Crore and consider the revenue from short term sale of surplus power as per actual.

Commission's Analysis

The Commission in the Tariff Order dated 30.03.2013 for the FY 2013-14 had approved the average power purchase cost at Rs. 2.29/kWh for procurement of 2276 MU from various generators.

The licensee had purchased 1870 MU, and 309.52 MU surplus power sold outside state at Rs. 2.46/kWh which is less than average procurement rates in the True up at Rs. 2.80/ kWh. The Commission in its Order for FY 2013-14 allowed Rs. 3.60/kWh as the minimum rate for sale of power and computed its revenue. MePDCL has not followed the guidelines of Regulations 93 (1) of MSERC Regulations 2011.

The Licensee should optimize the power purchase, fore-casting the requirement for ensuing year on monthly basis and properly capture the seasonality in demand as per Regulations.

The Commission expects that the licensee shall follow the Regulations formulated which are mandatory while adopting the performance parameters, laid down in the Regulations.

The Commission considering the submission of Licensee in the review Petition approved the sale of surplus power outside the state as projected at Rs. 2.46 kWh.

Penalty for AT&C loss FY 2013-14

Petitioner's Submission

As per MSERC Tariff Regulations 2011, the Hon'ble Commission has calculated the penalty for AT&C loss calculation based on the AT&C loss calculation of 42.16% as against the MePDCL figures of 36.69%. The difference in AT&C loss calculation is due to the difference in collection efficiency which in turn is because of the difference in the figures of "Revenue Billed for Sale of Power within the State". The revenue from sale of power within the state has been considered as Rs. 440.2 Crore as per the audited statement of accounts. However, the Commission has considered the figure of Rs. 481.77 Crore in the calculation of AT&C losses.

In this regard, it is inferred that the Commission has added the delayed payment surcharge figure of Rs. 41.57 Crore, appearing in the books of accounts of FY 2013-14. This is based on the note of the Commission in Table 5.7 of the impugned order.

In this context, it is submitted that the inclusion of delayed payment surcharge in revenue billed is not correct or justified as the figures of revenue collected also is exclusive of delayed payment surcharge collected from consumers. The receivables from delayed payment surcharge are booked under the accounting head of "23.7 –Miscellaneous" and the same has not been considered to calculate revenue realized from sale of power. The revenue realized of Rs. 405.36 Crore has been calculated based on the Accounting head "23.1-Sundry Debtors from Sale of Power". Further, the calculation method adopted by the Commission for FY 2013-14 is not consistent with the past practices and the Delayed Payment Surcharge has not been added in previous years. As such, the AT&C losses should have been considered as 36.69% as per the calculated figures in the petition of MePDCL.

Further, while calculating the penalty of AT&C losses, the Commission has also stated that it has not considered the impact of adjustment resulting from Hon'ble Supreme Court Order dated 28th August 2012 amounting Rs. 77.67 Crore. In this regard, the relevant excerpts from the order are given below:

"The Petitioner has adjusted Rs. 77.67 Cr. as adjustment due to Supreme Court Order dated 28.08.2012 and computed AT&C Losses at 36.69%. Since the Commission is not considering the adjustment at this stage without proper audit, the Collection Efficiency without considering the above amount shall become 84.14% as per revenue assessment to metered consumers in the State as per audited accounts. Accordingly the Commission has considered 31.26% as T&D Losses and Collection efficiency 84.14% and computed AT&C losses at 42.16% on provisional basis. At a later date, after C&AG certificate on revenue implication on account of Hon'ble Supreme Court Order, it may be corrected if required so."

In this regard, it is clarified that the adjustment resulting from Hon'ble Supreme Court Order dated 28th August 2012 has no impact on calculation of AT&C losses because the adjustment of Rs. 77.67 Crore has been made only on the receivables from sale of power. This is because the above amount was billed in previous years but not paid by the consumers and as such the same was appearing as receivables in accounts till the same was rectified in the accounts of FY 2012-13 and FY 2013-14 as detailed in the petition. As such, there is no impact of the same on the actual revenue billed in the year as well as the actual revenue collected in FY 2013-14. The petitioner has only tried to validate the figures of revenue collected from books of accounts by using the formula of:

Revenue Collected in a Year = Opening balance of receivables in the year + Revenue Billed during the year – Closing Balance of receivables for the year.

Since the closing balance of receivables in the accounts has been adjusted based on the Supreme Court Order, Accordingly, the same has been considered to validate the actual figure of revenue collection. In other words, the actual figure of revenue billed and revenue collected in FY 2013-14 is Rs. 440.20 Crore and Rs.405.36 Crore respectively, as stated in the petition and there is no adjustment made in this figures due to Supreme Court Order.

As such, the actual AT&C losses in FY 2013-14 is 36.69% as stated in the petition, which is 4.5% less than the actual AT&C losses of FY 2012-13 which is 41.26%. This implies that there should not be any penalty for AT&C loss reduction as the AT&C losses have reduced by more than the normative reduction of 3%. Based on this, it is requested to review the penalty calculation and allow an additional amount of Rs. 17.16 Crore for truing up purpose.

Commission's Analysis

The Commission had considered the collection efficiency at 84.14%. Considering Revenue billed to the consumers within the State at Rs. 481.77 Crore which includes Rs. 41.57 Crore towards delayed payment surcharge. The efficiency computed based on the collections made at Rs. 405.36 Crore out of the Revenue billed. The Petitioner had adjusted the excess Revenue billed as per the Tariff Order for FY 2008-09 for Rs. 77.67 Crore and claiming the reduced closing balance for AT&C loss computation as if the revenue collected in the FY 2012-13 and FY 2013-14 is not acceptable without proper audit as directed in the Commissions orders dated 31.03.2016 (Page 44). The Commission held that the AT&C loss computed at 42.16% on provisional basis. At a later date after filing of C&AG certificate on revenue implication on account of Hon'ble Supreme Court Orders dated 28.08.2012, it may be corrected if required so**.** The licensee shall file the C&AG audit certificate accordingly, along with independent auditors report.

The Commission considers no change in this respect and the Licensee shall file a separate petition along with independent auditors report and CAG audit report.

Accordingly, the revised ARR as given below is considered for FY 2013-14.

Table 7: ARR for FY 2013-14 (Provisional) Review

Sl. No.	Particulars	Approved in the True up (Rs. Crore)	Claimed for Review (Rs. Crore)	Now Approved (Rs. Crore)
1	Power Purchase	424.80		424.80
2	Transmission Charges	105.24		105.24
3	Employee Cost	95.94		95.94
4	R&M Expenses	4.78		4.78
5	A&G Expenses	7.31		7.31
6	Depreciation	10.00	11.01	11.01
7	Interest on working capital (including working capital)	16.44		16.44
8	Return on equity	9.43	111.13	13.62
9	**Gross ARR**	**673.94**		**679.14**
10	Less: Non Tariff Income	63.56		63.56
11	Less: Cross Subsidy Surcharge	-		-
12	Less: RE Subsidy	14.57		14.57
13	Less: Amortisation	-		3.51
14	**Net ARR**	**595.81**		**597.50**
15	Revenue from Tariffs	**506.62**	488.53	488.53
16	Penalty for AT&C Losses	17.16		17.16
17	**Net Gap/(surplus)**	**72.03**		**91.81**

IV. Provisional True up for FY 2014-15

Return of Equity

Petitioners Submission

It is submitted that the return on equity is computed as per Regulation 100 and 101 of the Tariff Regulations, 2011. The relevant provisions have been produced earlier.

As per the above provisions of Tariff Regulations, 2011, the computation of Return on Equity is shown below:

(Rs. Crore)

Sl. No.	Particulars	Approved	Actual	Additional Claim
1	Opening Equity for the Year	67.33	786.35	

2	Closing Equity for the Year	67.33	801.15	
3	Average Equity for the Year	67.33	793.75	
4	Rate of return	14.00%	14.00%	
5	**Return on Equity**	**9.43**	**111.13**	**101.70**

It is submitted that the Hon'ble Commission had allowed return on equity of Rs. 9.43 Crore considering Rs. 202.00 Crore equity to all three entities. However, the petitioner would like to submit that based on the provisional Statement of accounts for FY 2014-15, the return on equity may kindly be approved as Rs.111.13 Crore.

Commission's Analysis

The Licensee has claimed equity capital at Rs. 793.75 Crore for review of the FY 2014-15. As already held in the FY 2012-13, the equity capital does not correspond with the level of GFA in the statement of Accounts (unaudited) for FY 2014-15. The Commission has considered the opening equity capital at Rs. 97.31 Crore and 30% of additions to GFA considered at Rs. 1.39 Crore and return on equity has been computed in the Table given below.

Table 7: Computation of Return on equity for the FY 2014-15

(Rs. Crore)

Particulars	**Amount**
Opening Equity	97.31
Additions during the FY 2014-15 Rs. 4.64 Cr x 30%	1.39
Closing Equity	98.70
Average Equity	98.00
Return on Equity at 14%	13.72

The Commission approves Return on Equity at Rs. 13.72 Crore in review (Provisional) for the FY 2014-15.

The True up orders for FY 2014-15 were considered in the absence of C&AG Report as provisional by the Commission, subject to re-adjustment after filing of the Petition along with C&AG report. The Commission in its approach vide Para 1.6 Page No. 7, 8 and 11 of Tariff Orders dated 31.03.2016 had mentioned categorically, that the true up orders approved are interim and subject to revision on filing of C&AG audit report. The licensee shall comply with the directions of the Commission.

Depreciation

Petitioner's Submission

The Commission has carried out the provisional truing up of FY 2014-15 based on unaudited accounts and all the figures which have been approved are on provisional basis which shall be finalized after submission of audited accounts. However, the provisional truing up has been carried out as per the directive of Hon'ble APTEL in its order dated 1st December 2015 in order to pass the gap that has accumulated over the years so that there is no further carrying cost of the genuine gap determined in the truing up exercise. As such, going by the principle of the APTEL order, the provisional truing up should be carried out so that justified gap in actual and approved figures are immediately allowed to be recovered.

However, while allowing depreciation for FY 2014-15, the Commission has allowed only Rs. 1.73 Crore as against the actual figures of Rs. 11.23 Crore as per the accounts. As such, the provisionally approved figures of FY 2014-15 are almost 15% of the actual booked figures as well as around 17% of the approved figures for FY 2013-14. The sharp decrease in depreciation from the actual figures as well as the approved figures of past years defies logic. The same is also against the principle of the APTEL order mentioned above, to pass through genuine gaps in approved and actual figures.

The reason for the above reduction is that in FY 2014-15, the Commission has adopted a different methodology for allowing depreciation as against the methodology adopted in previous years. In truing up of FY 2013-14, the Commission has calculated the depreciation on assets funded through grants and consumer contribution based on the average value of grants and consumer contribution as per the books of accounts multiplied by the average depreciation rate. However, for FY 2014-15, the Commission has assumed that 90% of the assets are funded by grants and as such, allowed only 10%

of the depreciation calculated on the total average GFA (Gross Fixed Assets) as per the provisional accounts.

As such, MePDCL is requesting the Commission to review the depreciation calculation and adopt a similar methodology as adopted in FY 2013-14. The same has been calculated below:

Table 8: Projected Depreciation for FY 145-15 Provisional true up

Sl. No.	Particulars	Amount (Rs. Crore)
1	Average value of Grants and consumer contributions in FY 2014-15 as per accounts	102.02
2	Average Depreciation rate considered by the Commission	5.28%
3	Total Depreciation of assets funded through grants and consumer contribution (=1*2)	5.40
4	Allowed Depreciation	15.53
5	**Depreciation to be allowed in the review petition (4-3)**	**10.13**

Based on the above submissions, it is requested that the Commission may allow an additional amount of Rs. 10.13 Crore under depreciation for FY 2014-15.

Commission's Analysis

The Commission had considered that 90% of assets were created with government grants, and hence depreciation to be allowed on 10% of assets for determination of tariff and accordingly depreciation allowed in the tariff orders for Rs. 4.37 Crore.

As per the audited statement of accounts, MePDCL has submitted opening GFA on 01.04.2014 as Rs. 324.37 Crore (vide Note 11 Fixed assets) with an addition of Rs. 4.60 Crore during the FY 2014-15.

Licensee has submitted audited statement of accounts for FY 2014-15. As per the details made available the depreciation has been allowed at Rs. 10.64 Crore after deducting the value of the assets created with the Grants and consumer contributions in the review orders for FY 2014-15.

Table 9: Approved Depreciation for FY 145-15 Provisional true up

Sl. No.	Particulars	Amount (Rs. Crore)
1	Average value of Grants and consumer contributions in FY 2014-15 as per accounts	101.51
2	Average Depreciation rate considered by the Commission	4.73%
3	Total Depreciation of assets funded through grants and consumer contribution (=1*2)	4.80
4	Allowed Depreciation	15.44
5	Deduction (4-3)	4.80
6	**Depreciation to be allowed in the review petition (=4-3)**	**10.64**

The Commission approves Depreciation at Rs. 10.64 Crore in the Review.

Accordingly, the revised ARR given below is considered for FY 2014-15 provisionally.

Table 10: ARR for FY 2014-15 (Provisional) Review Considered by the Commission

(Rs. Crore)

Sl. No	ARR Element	Approved for Provisional True up	Claimed for Review	Now Approved
1	Power Purchase cost	481.25	---------	481.25
2	Interstate Transmission charges	137.5	----------	137.50
3	MePGCL Transmission	---------	----------	------
4	Employees cost	103.56	----------	103.56
5	R&M Expenses	7.39	----------	7.39
6	A&G Expenses	10.39	----------	10.39
7	Depreciation	1.73	10.13	10.64
8	Interest on loan capital	6.59	----------	6.59
9	Interest on working capital	13.7	----------	13.70
10	Return on Equity	9.43	111.13	13.72
11	**Gross ARR**	**771.54**	**----------**	**784.74**
12	Less Non Tariff Income	61.16	-----------	61.16
13	Less Other Income	7.45	-----------	7.45
14	Less RE Subsidy & Grant	110.79	-----------	110.79
15	Less Amortization	--------	-----------	4.63
16	**Net ARR**	**--------**	**-----------**	**600.71**

Sl. No	ARR Element	Approved for Provisional True up	Claimed for Review	Now Approved
17	Revenue from Tariffs	550.85	---------	550.85
18	**Net Gap / surplus**	**41.29**	**----------**	**49.86**

The Petition is hereby disposed off.

Place: Shillong **Chairman**

Date: 30.03.2017 **MSERC**