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Bihar Electricity Regulatory Commission

NOTIFICATION

The 1st November 2024

No.- BERC-SMP No-17/2024- 04- In exercise of powers conferred by subsection (1) of section 181 and clauses (zd), (ze) and (zf) of sub section (2) of section 181, read with sections 61, 62, and 86, of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in that behalf, the Bihar Electricity Regulatory Commission hereby makes the following Regulations.

PART-I

PRELIMINARY

1. Short Title, Commencement and Extent.—

These regulations shall be called the Bihar Electricity Regulatory Commission (Multi Year Distribution Tariff) Regulations, 2024.

These Regulations shall come into force from the date of their notification in the Official Gazette.

These Regulations shall extend to the whole of the State of Bihar.

2. Scope of Application.—

These Regulations shall apply to all the Distribution Licensees in the State of Bihar.

These Regulations shall be applicable for determination of tariff in all

cases covered under these Regulations from 1st April 2025 onwards and upto FY 2027-28 or till these Regulations are amended.

These Regulations shall be applicable where the cost based/Aggregate Revenue Requirement (ARR) based tariff is determined by the Commission.

3. Definitions:-

3.1 In these regulations, unless the context otherwise requires,-

- (1) **“Act”** means the Electricity Act, 2003(36 of 2003);
- (2) **“Aggregate Revenue Requirement”** or **“ARR”** means the costs Pertaining to the licensed business which are permitted, in accordance with these Regulations, to be recovered from the tariffs and charges determined by the Commission.
- (3) **“Aggregate Technical and Commercial Losses”** or **“AT&C”** is the difference between energy input units into the system and the units for which payment is collected;
- (4) **“Audited Accounts”** for the purpose of these regulations means (Audited) Regulatory Accounts prepared in accordance with BERC (Power Regulatory Accounting) Regulations, 2018.
- (5) **“Base Rate of Late Payment Surcharge”** means the marginal cost of funds based on lending rate for one year of the State Bank of India, as applicable on the 1st April of the financial year in which the period lies, plus five per cent and in the absence of marginal cost of funds based lending rate, any other arrangement that substitutes it, which the Central Government may, by notification, in the Official Gazette, specify: Provided that if the period of default lies in two or more financial years, the base rate of Late Payment Surcharge shall be calculated separately for the periods falling in different years .
- (6) **“Base Year”** means the financial year immediately preceding first year of the control period and used for the purposes of these Regulations;
- (7) **“Books of Accounts”** means Regulatory Books of Accounts drawn up in accordance with BERC (Power Regulatory Accounting) Regulations, 2018, as amended from time to time
- (8) **“Commission”** means the Bihar Electricity Regulatory Commission;
- (9) **“Conduct of Business Regulations”** means the Bihar Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, as amended from time to time.
- (10) **“Control Period”** means the multi-year period comprising of three Years from April 1, 2025 to March 31, 2028 or as may be extended by the

Commission, for submission of forecast in accordance with these Regulations;

- (11) **"Due date"** means the date by which the bill for the charges for power supplied by the generating company or electricity trading licensee or for the transmission service provided by a transmission licensee are to be paid, in accordance with the agreement, as the case may be, and if not specified in the agreement, forty-five days from the date of presentation of the bill by such generating company, electricity trading licensee or transmission licensee:

Provided that if due date for payment of any invoice falls on a bank non-working day, the next bank working day shall be considered as due date for payment;

- (12) **"Expenditure"** means reasonable and prudently required expenditure incurred on the following:
- a) Purchase of energy less rebate availed/to be availed and excluding late payment surcharge;
 - b) Salaries and wages of staff, welfare expenses including management remuneration covered below;
 - Directors remuneration, fees, expenses including facilities;
 - Salaries and wages of corporate office/registered office;
 - c) Financing cost excluding penal interest/charges;
 - d) Interest charges on loan(s) borrowed for capitalized assets;
 - e) Interest on temporary accommodation to the extent of approved unrealized arrears from the consumers
 - f) Interest on working capital
 - g) Return on equity;
 - h) Financing charges applicable to operational account;
 - i) Interest on security deposits(in cash)from consumers;
 - j) Interest on advance received from consumers ,if any against sales;
 - k) Impact of variation in foreign exchange rate incase of foreign currency loan taken with due approval and is not capitalised;
 - l) Depreciation
 - m) Rents, rates and taxes, other than all taxes relating to income/ profits;
 - n) Legal charges;
 - o) Auditor's expenses, Auditor's fees; auditor's expenses ;Payment to Auditors in any other capacity or for any work which is necessary to be got done from them in connection with audit;

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- (r) Consultancy charges for work which cannot be done in house or is un economical in doing in-house or is essential to be done from outside sources;
 - (s) Bad debts actually written off subject to Commission's clearance;
 - (t) Other expenses necessary which are ancillary or incidental to the business of electricity except penalty etc levied under the Act or any other law in force;
 - (13) **"Financial Year"** means a period commencing on 1st April of a calendar year and ending on 31st March of the subsequent calendar year;
 - (14) **"Income"** shall include all income from any sources but shall not be limited to the following:
 - a) sale of energy or gross receipts from sale of energy less discounts/rebates given based on the orders of the Commission;
 - b) Rental of meters, plant, equipment and other apparatus hired to the consumers;
 - c) Income from services to consumers by way of repair or any sale or other service other than capital receipts;
 - d) Interest on investments, bank balances including fixed and call deposits and any other income in the form of interest;
 - e) Profit on sale of assets;
 - f) Wheeling of energy;
 - g) Non tariff income;
 - h) Income from other business;
 - i) Cross subsidy surcharge u/s 42(2) of the Act;
 - j) Additional surcharge u/s 42(4) of the Act;
 - k) Any receipt or refund from other sources against any expense or likely expense which has been earlier allowed as expense in the tariff;
 - l) All other general receipts arising from and ancillary or incidental to the business of electricity supply;
 - m) Other general receipts in terms of Act/Regulations including use of assets for other business whether actually recovered or not;
 - (15) "Late Payment Surcharge" means the charges payable by a distribution licensee to a generating company or electricity trading licensee for power procured from it, or by a user of a transmission system to a transmission licensee on account of delay in payment of monthly charges beyond the due date as per Rule 2 (g) of Late Payment Surcharge Rule, 2022.
 - (16) **"Licence"** means a licence granted under clause (b) of section 14 of the Act;

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- (17) **“Licensed Business”** means the functions and activities, which the licensee is required to undertake interms of the licence granted by the Commission or being a deemed licensee as referred under sections 14 and 172 of the Act;
 - (18) **“Licensee”** means a person who has been granted a licence and shall include a deemed licensee;
 - (19) **“Non-Tariff Income”** means income relating to the licensed business other than from tariff wheeling and retail supply) and excluding income from receipts on account of cross-subsidy surcharge and additional surcharge, any income from other business;
 - (20) **“Other Business”** means any other business of the distribution licensee for optimum utilisation of its assets with in the meaning of Section 51 of the Act;
 - (21) **“Outstanding dues”** means the dues of a generating company, electricity trading licensee, or a transmission licensee, not stayed by a competent court or Tribunal or dispute resolution agency as designated in the Power Purchase Agreement, which remains unpaid by the beneficiary beyond the due date and includes the amount of instalment not paid after the re-determined due date;
 - (22) **“Payment security mechanism”** means Letter of Credit or Letter of Credit backed by Escrow Account as per the agreement. Provided that, advance payment shall constitute payment security if there are no outstanding dues.
 - (23) **“Retail Supply Business”** means the business of sale of electricity by a distribution licensee to the consumers within the area of supply in accordance with the terms of the licence for distribution and retail supply of electricity;
 - (24) **“Wheeling”** means the operation whereby the distribution system and associated facilities of a distribution licensee are used by another person for the conveyance of electricity on payment of charges to be determined under section 62 or section 42(2)of the Act;
 - (25) **“Wheeling Business”** means the business of operating and maintaining a distribution system for conveyance of electricity in the area of supply of the distribution licensee.

3.2 The words and expressions used and not defined in these Regulations, but defined in other Regulations or the Act, shall have the meanings assigned to them in the other Regulations or the Act respectively.

- 3.3** The words “Application” or “Petition” shall be interpreted synonymously.

PART-II

GENERAL PRINCIPLES

4 Multi Year Tariff Framework—

The Commission shall determine the tariff or distribution business under a Multi-Year Tariff framework with effect from April 1st of each financial year subject to provisions under regulations 8,12,13 and 14 of these Regulations.

The Multi-Year Tariff framework shall be based on the following elements, for calculation of Aggregate Revenue Requirement and expected revenue from tariff and charges for Distribution Business:

- (i) Control Period, before commencement of which a forecast of the Aggregate Revenue Requirement and expected revenue from existing tariff and charges shall be submitted by the applicant and approved by the Commission;
- (ii) A detailed Business Plan based on the Operational Norms specified in these regulations and trajectories of performance parameters, for each year of the Control Period, shall be submitted by the applicant for the Commission's approval, subject to provisions under regulations 8,12,13, and 14 of these Regulations;
- (iii) Based on the Business Plan, the applicant shall submit a petition with the forecast of Aggregate Revenue Requirement and expected revenue from existing tariff for each year of the Control Period, and the Commission shall approve the tariff for each year of the Control Period;
- (iv) The mechanism for pass-through of approved gains or losses on account of uncontrollable factors as specified by the Commission in these Regulations;
- (v) The mechanism for sharing of approved gains or losses arising out of controllable factors as specified by the Commission in these Regulations;

5. Business Plan.—

- 5.1** The Distribution Licensee shall file a Business Plan for the Control Period i. e. FY 2025-26 to FY 2027-28, by way of a separate petition along with the tariff petition for the first year of the Control Period i.e. 2025-26 for approval of the commission. The petition for approval of Business Plan shall be filed in accordance with BERC (Conduct of Business) Regulations, 2005 as amended from time to time, accompanied by such fee payable, as specified in the BERC (Fees, Fines and Charges) Regulations, 2019 as

amended from time to time.

- 5.2** Such Business Plan shall comprise but not limited to detailed category / sub-category-wise sales and demand projections, power procurement plan, capital Investment plan, financing plan and physical targets.

Provided that in case the Commission issues guidelines and formats, from time to time, the same shall be adhered to by the Distribution Licensee.

- 5.3** The Distribution Licensee shall make assessment of infrastructure requirement and prepare capital investment plan in accordance with BERC (Procedure for Filing Capital Investment and Capitalization Plan) Regulations, 2018 that will fall into the year(s) under review and new projects that will commence and may be completed within or beyond the tariff period. It is the duty of the Distribution Licensee to ensure optimization of investments to enhance efficiency, productivity and meet performance standards prescribed by the Commission.

- 5.4** The Commission shall approve the capital investment plan in accordance with BERC (Procedure for Filing Capital Investment and Capitalization Plan) Regulations, 2018, as amended from time to time.

- 5.5** The Commission may also undertake a detailed review of the actual works compared with the works approved in the previous Tariff Order while approving the capital expenditure for the ensuing year.

- 5.6** The Distribution Licensee shall normally get prior approval of every capital investment, in case the capital expenditure is required for emergency work arisen due to unforeseen circumstances, the Licensee may take up the work upto Rs. 5 Crore prior to receiving the approval from the Commission provided the emergent nature of the scheme has been certified by its Board of Directors or by the Authority delegated by the Board of Directors.

- 5.7** The Licensee shall submit an application showing detailed justification along with supporting documents for emergent nature of expenses within 15 days of occurrence of cause for such investment, seeking post facto approval by the Commission.

- 5.8** The Distribution Licensees shall access and project the power purchase requirement in accordance with Bihar Electricity Regulatory Commission (Power Purchase and Procurement Process of Licensee) Regulations, 2018.

6. Forecast.—

- 6.1** The applicant, based on the Business Plan, shall submit the forecast of

Aggregate Revenue Requirement and expected revenue from tariff, for the Control Period by a Petition in accordance with BERC (Conduct of Business) Regulations, 2005, as amended from time to time, by 15th November of the year prior to the commencement of the Control Period and accompanied by such fee payable, as specified in the BERC (Fees, Fines and Charges) Regulations, 2019 as amended from time to time.

6.2 The forecast of Aggregate Revenue Requirement shall be developed using the assumptions relating to the behaviour of individual variables that comprise the Aggregate Revenue Requirement during the Control Period.

6.3 The forecast of expected revenue from tariff and charges shall be developed based on the following:

- (a) Estimates of category/sub-category wise quantum of electricity to be supplied to consumers and wheeled on behalf of Distribution System Users for each financial year within the Control Period; and
- (b) Prevailing tariff as on the date of making the application.

7. Specific trajectory for certain variables.—

7.1 The Commission shall stipulate a trajectory while approving the Business Plan, for certain variables having regard to the reorganization, restructuring and development of the electricity industry in the State:

Provided that the variables under regulation 7 for which a trajectory may be stipulated shall include, but are not limited to, Operation & Maintenance expense norms, supply availability, wires availability, distribution losses, collection efficiency and AT&C Losses.

Provided also that the AT&C losses reduction trajectory to be approved by the Commission for tariff determination shall be in accordance with the trajectory agreed to the State Government of Bihar and approved by the Central Government under any national scheme or programme, or other wise as may be decided by the Commission from time to time.

7.2 In case the Commission has approved the business plan by 31st October of current year, the trajectory stipulated by the Commission in the order approving the Business Plan submitted by the applicant, shall be incorporated by the applicant, in its forecast of Aggregate Revenue Requirement and/or expected revenue from tariff and charges under regulation 6.3 of these Regulations.

8. Annual Review of Performance and True-up.—

Where the Aggregate Revenue Requirement and expected revenue from

tariff and charges of a Distribution Licensee are covered under a Multi-Year Tariff framework, such Distribution Licensee shall be subject to an annual review of performance and True-up during the Control Period in accordance with these Regulations.

9. Controllable and uncontrollable factors.—

9.1 The “uncontrollable factors” shall comprise but not limited to the following factors which are beyond the control of, and could not be mitigated by the applicant:

- (a) Force Majeure events, such as acts of war, fire and natural calamities;
- (b) Change in law;
- (c) Taxes and Duties;
- (d) Variation in metered sales; if the Distribution Licensee has adequate power availability;
- (e) Variation in the cost of power generation and/or power purchase due to the circumstances specified in regulations 20 of these Regulations;
- (f) Variation in the cost of power purchase due to the circumstances specified in regulation 10.1.4 of Bihar Electricity Regulatory Commission (Power Purchase & Procurement Process of Licensee) Regulations, 2018, provided procedure for procurement of power in such circumstances have been complied.

9.2 The “controllable factors” shall comprise but not limited to the following factors which are within the control of, and are attributable to the applicant:

- (a) Variations in capital expenditure on account of time and/or cost overruns/ efficiencies in the implementation of a capital project not attributable to an approved change in scope of such project, change in statutory levies or force majeure events;
- (b) Variations in distribution losses which shall be measured as the difference between the units in put into the distribution system and the units billed for the same year;
- (c) Variations in Return on Equity (RoE), depreciation and working capital requirements. However, if the Commission is satisfied that the variation in the working capital requirement is attributable to any uncontrollable factors, the same may be considered as uncontrollable factor;
- (d) Failure to meet the standards specified in the Standards of

Performance Regulations, except where exempted;

- (e) Variations in operation & maintenance expenses, except those attributable to directions of the Commission or to change in Government policy/law;
- (f) Variation in Wires Availability and Supply Availability, within the control of Distribution Licensee.

10. Mechanism for pass-through of gains or losses on account of uncontrollable factors.—

The approved aggregate gain or loss to the Distribution Licensee on account of uncontrollable factors shall be a pass through, as an adjustment in the tariff of the Distribution Licensee, as specified in these Regulations and as maybe determined in the Order of the Commission passed under these Regulations.

The Distribution Licensee shall submit such details of the variations between actual and the figures approved by the Commission along with the detailed computations and supporting documents as may be required by the Commission.

11. Mechanism for sharing of gains or losses on account of controllable factors.—

- 11.1 The approved aggregate gain or loss to the Distribution Licensee on account of controllable factors shall be dealt separately for aggregate gain and aggregate loss respectively in the following manner:

(a) Aggregate gain:

- (i) Two-third of the amount of such gain shall be a pass through as an adjustment in the tariff of the Distribution Licensee, as specified in these Regulations and as may be determined in the Order of the Commission passed under these Regulations;
- (ii) The balance one-third of the amount of such gain shall be on account of Distribution Licensee and such amount shall be utilized at the discretion of Distribution Licensee.

(b) Aggregate Loss:

- (i) One-third of the amount of such loss shall normally be a pass through as an adjustment in the tariff of the Distribution Licensee as specified in these Regulations and as may be determined in the Order of the Commission passed under these Regulations, provided the Commission is satisfied that such loss is not on account of deliberate action of the Distribution Licensee;

- (ii) The balance two-third of the amount of such loss shall be on account of Distribution Licensee.

Explanation:1- If the State Government is providing resource gap grant, Aggregate Loss shall be reduced by that amount for the purpose of computation of Aggregate Loss to be qualified for a pass through.

- 11.2** The Distribution Licensee shall submit such details of variation for sharing of approved aggregate gain or loss on account of controllable factors along with the detailed computations and supporting documents as maybe required for verification by the Commission.

Explanation: For the purpose of variation for sharing of approved aggregate gain or loss on account of norms based expenditure. Variation will be calculated as a difference between normative expenditure as re-calculated in truing up and actual expenses booked in the audited books of accounts.

- 11.3** In case, there are other regulations which specifies for incentive/disincentive, in that case gains/losses will not be shared under this regulation.

Provided that losses, during any year of the control period, above the limit as approved by the Commission under AT&C loss reduction trajectory for the control period and in accordance with Regulation (7) above shall not be passed on to the consumers.

PART-III

PROCEDURE

- 12. Procedures relating to making of an application for determination of Tariff:-**

- 12.1** An application (alongwith soft copy) for approval of the Business Plan shall be made by 15th September of the year prior to the commencement of the Control Period, in accordance with the BERC(Conduct of Business) Regulations, 2005 and its amendments from time to time, and accompanied by such fee payable, as specified in the BERC (Fees, Fines and Charges) Regulations, 2019” as amended from time to time.

Provided that, application for approval of the Business Plan shall not be required to be filled for the Control Period and all requirement of business plan shall be incorporated in the MYT petition of this control period.

- 12.2** An application (alongwith softcopy) for determination of tariff shall be

made by 15th November every year, for Truing up of expenses of previous years, for Annual Performance Review(APR) of the Aggregate Revenue Requirement(ARR)for the current year and determination of ARR and tariff for retail sale of electricity for the ensuing years of the control period. The application should contain the data relating to each item of the ARR supported with the information/data in the formats 1 to 41 appended to these Regulations, revenue income on existing tariff, revenue income on proposed tariff, tariff design, structure and rates for retail sale of electricity, etc with explanatory notes and accompanied by such fees as may be specified under the BERC(Fees, Fines and Charges)Regulations, 2019 as amended from time to time. All the information as required in the formats appended to these Regulations along with justification shall be provided in the main petition.

- 12.3 The petition for determination of tariff shall be accompanied by information for the previous year, current year revised estimate and the ensuing years of the entire control period capturing the expected revenues from the tariff and charges including miscellaneous charges at existing rates along with detailed assumptions, parameters required in annual true-up, Annual Performance Review exercise, Annual Revenue Requirement etc.

Provided that the application shall be accompanied where relevant, by a detailed tariff revision proposal showing sub-category-wise tariff and how such revision would meet the gap, if any, in Aggregate Revenue Requirement for each year of the Control Period.

Provided further that the information for the previous year shall be based on audited accounts and in case audited accounts for the previous year are not available, audited accounts for the immediately preceding year should be filed along with provisional books of annual(regulatory) accounts for the previous year duly approved by the Board of Directors of the licensee company.

- 12.4 The Distribution Licensee shall along with the aforesaid petition submit a statement on the status of compliance of directives, if any, issued by the Commission in its last tariff order.
- 12.5 The petition for determination of tariff shall include the details of actual subsidy received from the State Government vis-à-vis claimed by the Distribution Licensee in the True-up petition for the previous year.
- 12.6 The Commission may seek clarification and additional information on

inadequacies if any, in the application within fourteen (14) days or as may be practicable, of filing of the application for approval of the Business Plan and application for determination of tariff, as the case may be.

- 12.7 The Distribution Licensee shall respond to the Commission within the next ten (10) days with all clarifications and information as required.
- 12.8 The Commission shall admit the application for approval of the Business Plan and application for determination of tariff, as the case may be within seven (7) days or as may be required, of submission of response to the clarifications, if any, by the Distribution Licensee.
- 12.9 Upon receipt of a complete application accompanied by all requisite information, particulars and documents in compliance with the requirements specified in these Regulations, the application for approval of the Business Plan and application for determination of tariff, as the case may be, shall be deemed to be received and the Commission or the Secretary or the designated Officer shall intimate to the applicant with the abridged form of application for publication of public notice in the daily newspapers. In case of non-submission or delay in submission of additional information, the Commission may take suo-motu decision to formulate this abridged form of application as it deem appropriate.

Provided that the applicant shall make available a hard copy of the complete application, to any interested party, at such locations and at such rates as may be stipulated by the Commission.

Provided further that the applicant shall also put up on its internet website, in downloadable spreadsheet format showing detailed computations, the application made to the Commission along with all regulatory filings, information, particulars and documents in the manner so stipulated by the Commission.

Provided further that the web-link to the information mentioned in the second proviso above shall be easily accessible, archived for downloading and shall be prominently displayed on the applicant's internet website.

Provided also that, the applicant may not provide or put up any such information, particulars or documents, which are confidential in nature, with the prior approval of the Commission.

Explanation—for the purpose of this Regulation, the term “downloadable spreadsheet format” shall mean one(or multiple,

linked)spreadsheet software files containing all assumptions, formulae, calculations, software macros and outputs forming the basis of the application.

- 12.10 Notwithstanding anything contained in these Regulations, in case of delay/ non- submission of the application for approval of the Business Plan and application for determination of tariff, as the case may be, the Commission may initiate suo-motu proceedings mandating the filing of the said applications.

Provided that in the event of the licensee not filing the application despite the aforesaid proceeding, the Commission may on its own, decide the tariff based on previous year's tariff details and after incorporating suitable adjustments. However before issuing tariff order under such circumstances, comments/suggestions/objections from the public and stake holders including the licensee will be invited and same will be considered for the tariff order.

Provided further that, the Commission may also pass directions under Section 129 and/or Section 142 of the Act, if required.

13. **Order approving the Business Plan and Tariff Order.—**

- 13.1 An Order approving with such modifications or such conditions as may be specified in that order or rejecting the Business Plan shall, as far as practicable, be issued before filing of tariff petition separately or with the tariff order as the Commission may deem fit and practicable.

- 13.2 The Commission shall, within one hundred and twenty(120)days from receipt of a complete application for determination of ARR and tariff and after considering all suggestions and objections received from the public and after hearing all stakeholders and general public:-

- (a) Issue a Tariff Order accepting the application with such modifications or such conditions as may be specified in that Order;
- (b) reject the application for reasons to be recorded in writing, if such application is not in accordance with the provisions of the Act and the Rules and Regulations made there under or the provisions of any other law for the time being inforce:

Provided that, an applicant shall be given a reasonable opportunity of being heard before rejecting its application.

- 13.3 The applicant shall publish the tariff approved by the Commission within seven (7) days of issue of tariff order in at least two (2) English and two (2) Hindi daily newspapers having wide circulation in the area of

supply of the applicant and shall put up the approved tariff / tariff schedule on its internet website and make available for sale, a booklet containing such tariff schedule to any person upon payment of reasonable reproduction charges.

- 13.4 The tariff so published shall be in force from the date specified in the said Order and shall, unless amended or revised, continue to be in force for such period as may be stipulated therein.

14. True-up and Annual Performance Review.—

The Commission shall True-Up expenses of the previous year either as part of the Tariff order or issue Order/s for True-Up of expenses preceding the Tariff order of ensuing year:

- (a) An order for True-Up of expenses shall be issued on annual basis.
- (b) An order for True-Up of expenses shall be on the basis of expense estimates made in the beginning of the year under consideration, actual expenses booked in the audited books of accounts of the Distribution Licensee for the year, and after prudence check of data by the Commission.
- (c) Where audited books of account are not available at the time of true-up, provisional books of annual (regulatory) accounts duly approved by the Board of Directors of the applicant company shall be used for the provisional True-up process.
- (d) The Commission shall undertake review of estimates of expenses for the current year as a part of the tariff order on the basis of the actual expenses incurred during the period April – September of the current year and corresponding figures in the order for Annual Revenue Requirement (ARR) of the current year approved by the Commission.
- (e) Estimates of expenses for the ensuing year shall be on the basis of corresponding figures in the order for True-up of expenses of the previous year and Annual Performance Review or Tariff Order of the current year, as the Commission may consider reasonable and deem fit.
- (f) Notwithstanding anything contained in regulation 4 of these Regulations, the Revenue gap/surplus arising out of Trueing up shall be considered by the Commission while determining the ARR of ensuing year(s). While approving adjustments towards

revenue/expenses in future years, arising out of Truingup exercises, the Commission may allow the carrying costs as per Ministry of Power – Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 as amended from time to time of such expenses/revenues. However the revised estimated gap/surplus as a result of APR shall not be passed in the ARR of ensuing year.

15. Adherence to Tariff Order.—

15. 1If a Distribution Licensee recovers a price or charge exceeding the tariff determined under Section 62 of the Act and in accordance with these Regulations, the excess amount shall be payable to the person who has paid such price or charge, alongwith interest equivalent to the Bank Rate of the Reserve Bank of India without prejudice to any other liability that may be incurred by such Distribution Licensee.
- 15.2 The Distribution Licensee shall submit periodic returns as may be required by the Commission, containing operational and cost data to enable the Commission to monitor the implementation of its Order.

PART-IV

SALES, POWER PURCHASE QUANTUM AND COST

16. Sales forecast.—

- 16.1 Forecasting Methodology.— Metered sales shall be treated as an uncontrollable parameter; and un-metered sales shall be treated as a controllable parameter.

Provided that, open access transactions shall not form part of the sales.

Provided further that absolute sales forecast of metered category shall be based on past trends in each of the slabs of consumer categories.

Provided further that, incase of un-metered category, sales forecast shall be based on the norms developed asper Regulation 16.2 of these regulations.

Provided further that in cases where slab-wise sales to each metered consumer category are not available in audited books of accounts and only consolidated sales are available, the Distribution Licensee shall include the slab-wise sales alongwith the Business Plan and Tariff petition.

Provided also that in case of occurrence of materially significant

findings during audit check as per Regulation 16.3 of these regulations, prudent adjustment in forecasted sales shall be carried out.

16.2 Methodology for determination of norms of unmetered sales.—

- (a) Till the time 100% metering of electricity consumers is achieved in the area of operation of Distribution Licensee, an independent study shall be conducted on yearly basis by the Distribution Licensee as per Regulation 17 of these regulations to assess actual consumption of power by unmetered consumer segment;
- (b) The study referred to in clause (a) of this Regulation shall cover actual consumption in the block (hours of usage, specifications of motor power etc.) demonstrating seasonal impact, economic development, demographics, consumption pattern, etc. This would aid to develop norms pertaining to electricity consumption in un-metered consumer segments.
- (c) Stratified random sampling shall be used to identify consumers in block/district for study which would be, well distributed representation of the block under purview such that sampled consumers shall exhibit same demographic profile, energy consumption pattern, water level etc. of the block.

Provided that the sample selected shall be from all the subdivisions in the state.

16.3 Overhaul Exercise.—

- (a) A team shall be formed by Distribution Licensee to validate the status of meters, load of metered and un-metered consumers and category classification of consumers in the area of operations of Distribution Licensee.
- (b) The over haul exercise shall be a year-long assessment study conducted on monthly basis.
- (c) For the over haul exercise, consumers shall be sampled for a monthly over haul from the circles served by the Distribution Licensee.

Provided that the sample so chosen shall be close representation of geographic, demographic, industrial/ commercial/ residential/ agricultural spread served by the Distribution Licensee

- (d) In the event, inconsistencies are found in the number of metered consumers, status of the meters, load at consumer premises or category classification of the consumers, the forecast arrived at in Regulation 16.1 on the basis of historical audited sales shall be adjusted

accordingly as specified in Regulation 16.1.

17. Study of un-metered sales.—

17.1 Study of Agricultural feeders not segregated insignificant numbers.—

- (a) The sample of consumers selected shall be monitored and the readings of consumption can be taken from the meters installed at each DT in the sample area.
- (b) The load of all the consumers connected on the DT in each of the sample area shall be validated each month to account for any additional load or replacement of old motor with new motor by the consumers.
- (c) Based on the result of year long month-wise study, the consumption pattern for selected subdivisions shall be established.
- (d) The results of the study shall be extrapolated to adjoining areas with similar water level and the same cropping patterns.
- (e) The month-wise analysis of the sample selected for the establishment of norms shall be submitted to the Commission at regular intervals so that the directions of the Commission are incorporated before the completion of study.

17.2 Study of Agricultural feeders segregated insignificant numbers.—

- (a) Meters shall be installed at input points of the feeder at the sub-station and based on the load flow study the technical loss of the feeder will be evaluated.
- (b) The difference of the feeder meter consumption and technical losses will be agricultural consumption.

Provided that such computation of agricultural consumption may include commercial losses the percentage of which shall be worked out by the Distribution Licensee during the annual study.

- (c) The study report shall be submitted to the Commission by 31st October so that the Commission have enough time to conduct validation check and analysis in collaboration with an independent agency and with due assistance of team designated by the Distribution Licensee.
- (d) The Distribution Licensee shall be informed as late as morning of the day scheduled for inspection by the Commission to have reality check and to ensure that power supply and the Distribution Licensee's personnel are available.
- (e) Any significant deviation in the parameters reported in annual study

from the baseline study may necessitate revision of norms by the Commission.

18. Treatment of Aggregate Technical and Commercial Loss.

18.1 Aggregate Technical and Commercial Loss shall be considered as a controllable parameter. The Commission shall approve AT&C Loss targets on the basis of approved distribution loss and collection efficiency targets.

Provided that the AT&C loss so computed shall be in alignment with the AT&C loss trajectory approved under Regulation 7 of this regulation.

18.2 Distribution Loss.— Based on the assessment of metered and un-metered sales as per Regulations 16 and 17 of these regulations, the Commission shall update existing baseline of distribution losses. Provided that circle-wise distribution loss reduction targets shall be approved by the Commission on the basis of circle-wise distribution loss, circle-wise differential tariff by way of separate and distinct distribution loss surcharge may also be considered by the Commission, if the Commission considers it appropriate and practicable.

18.3 Collection Efficiency.— The Commission shall approve collection efficiency targets. To reflect true position of Collection Efficiency, Revenue/Tariff subsidy actually received (not subsidy booked) shall be considered.

18.4 The AT&C Loss shall be computed in accordance with the formula and methodology provided in Regulations 18.5 below.

18.5 Formula and methodology for computation of AT&C Loss.— The formula and methodology for computation of AT & C losses shall be prescribed under Additional Disclosure Statement 4: Statement of (Aggregate Technical and Commercial, AT & C) loss in the Electricity Distribution (Accounts and Additional Disclosure) Rules, 2024 Ministry of Power, Govt. of India as below:

S.No.	Parameter	Unit	Description	For the year ended 31st March, 20.. (current year)	For the year ended 31st March, 20.. (previous year)
(1)	(2)	(3)	(4)	(5)	(6)
A	Gross input energy	MU	SE's own generation - auxiliary consumption + energy purchased (gross)		
B1	Inter-State sale/ energy traded/UI	MU			
B2	Transmission losses	MU			
C	Net input energy	MU	C= A-B1-B2		
D	Energy sold	MU	Energy sold to all categories of consumers excluding units of energy traded/ inter-State sales/UI		
E	Revenue from sale of energy on tariff subsidy received basis	Rs. crore	Revenue from sale of energy to all categories of consumers (including tariff subsidy received) but excluding revenue from energy traded/ inter-State sales/UI		
F	Opening trade receivable	Rs. crore	Gross opening trade receivable as per trade receivable schedule.		
G	Closing trade receivables	Rs. crore	(i) Gross closing trade receivables as per trade receivable note		
			(ii) Any amount written off during the year directly from (i)		
H	Adjusted closing trade receivable for sale of energy	Rs. crore	G(i)+G(ii)		
I	Collection efficiency	%	$(E+F-H)*100/E$		
(1)	(2)	(3)	(4)	(5)	(6)
J	Billing efficiency	%	Value to be taken from Additional Disclosure Statement 2		
K	Units realized	MU	D*I		
L	Units un-realized	MU	C-K		
M	AT&C losses	%	$L*100/C$		

- Note:**
- (i) In column (2) collection efficiency to be capped at 100%.
 - (ii) For calculation of AT&C loss, revenue and trade receivables shall include only:
 - (a) Sale of power to LT, HT and EHT consumers net of rebate to consumers;
 - (b) Other receipts from consumers (such as meter rents, service rentals, recoveries for theft of power and malpractices, etc.);
 - (c) FAC/FCA/ FPPCA/PPAC;
 - (iii) For calculation of AT&C loss, revenue and trade receivables shall exclude:
 - (a) Electricity duty/other taxes;
 - (b) Wheeling of energy;
 - (c) Open access sale;

- (d) Sale of power through inter-State sale/ energy traded/UI/DSM/ inter DISCOM sale;
- (e) Delayed payment surcharge/ late payment surcharge.

19. Power Purchase Quantum and Cost.—

- (a) Based on the demand estimates grossed up with distribution losses as determined by regulation 18 of these regulations and transmission losses, the power purchase quantum shall be calculated in accordance with BERC (Power Purchase & Procurement Process of Licensee) Regulations, 2018.

Provided that the power purchase quantum shall be net of sale of surplus power, if any.

- (b) The Power Purchase cost for the power purchase quantum as referred in (a) Above shall be inclusive of inter-state transmission and POSOCO charges but excluding revenue from sale of surplus power, if any. Provided that the power purchase cost calculated above shall be net of rebate at such rate as specified in CERC Tariff Regulations.

Provided further that the power purchase cost referred above shall be excluding late payment surcharge (LPSC).

- (c) Revenue from sale of surplus power shall be estimated at per unit weighted average price of bilateral purchases.

Power Purchase Planning.—Comprehensive Power Procurement Plan approved in accordance with the BERC(Power Purchase& Procurement Process of Licensee) Regulations, 2018 shall be submitted as part of MYT petition to the Commission.

20. FUEL AND POWER PURCHASE ADJUSTMENT SURCHARGE (FPPAS)

20.1 “Fuel and Power Purchase Adjustment Surcharge” (FPPAS) means the increase in cost of power, supplied to consumers, due to change in Fuel cost, power purchase cost and transmission charges with reference to cost of supply approved by the State Commission.

20.2 Fuel and Power Purchase adjustment surcharge shall be calculated by the DISCOMs on monthly basis and shall be billed to the consumers automatically without going through regulatory approval process according to the formula prescribed by the Commission subject to true-up on an annual basis. Automatic pass through shall be adjusted for monthly billing in accordance with these regulations.

The petition for true-up of FPPAs for a financial year shall be submitted by the DISCOMs to the Commission by 31st May of the next

financial year and the true-up shall be completed by 30 th June of next Financial Year.

- 20.3 Fuel and Power Purchase Adjustment Surcharge shall be computed and charged by the distribution licensee, in (n+2)th month, on the basis of actual variation, in cost of fuel and power purchase for the power procured during the nth month. For example, the fuel and power purchase adjustment surcharge on account of changes in tariff for power supplied during the month of April of any financial year shall be computed and billed in the month of June of the same financial year:

Provided that in case the distribution licensee fails to compute and charge fuel and power purchase adjustment surcharge within this time line, except in case of any force majeure condition, its right for recovery of costs on account of fuel and power purchase adjustment surcharge shall be forfeited and in such cases, the right to recovery the fuel and power purchase adjustment surcharge determined during true-up shall also be forfeited.

- 20.4 The distribution licensee may decide, fuel and power purchase adjustment surcharge or a part thereof, to be carried forward to the subsequent month in order to avoid any tariff shock to consumers, but the carry forward of fuel and power purchase adjustment surcharge shall not exceed a maximum duration of two months and such carry forward shall only be applicable, if the total fuel and power purchase adjustment surcharge for a Billing Month, including any carry forward of fuel and power purchase adjustment surcharge over the previous month exceeds twenty per cent of the variable component of approved tariff.
- 20.5 The carry forward shall be recovered within one year or before the next tariff cycle whichever is earlier and the money recovered through fuel and power purchase adjustment surcharge shall first be accounted towards the oldest carry forward portion of the fuel and power purchase adjustment surcharge followed by the subsequent month.
- 20.6 In case of carry forward of fuel and power purchase adjustment surcharge, the carrying cost at the rate of State Bank of India Marginal Cost of Funds-based Lending Rate plus one hundred and fifty basis points shall be allowed till the same is recovered through tariff and this carrying cost shall be trued up in the year under consideration.
- 20.7 Depending upon quantum of fuel and power purchase adjustment surcharge, the automatic pass through shall be adjusted in such a

manner that,

- (i) If fuel and power purchase adjustment surcharge $\leq 5\%$, 100% cost recoverable of computed fuel and power purchase adjustment surcharge by distribution licensee shall be levied automatically using the formula.
- (ii) If fuel and power purchase adjustment surcharge $> 5\%$, 5% fuel and power purchase adjustment surcharge shall be recoverable automatically as per 20.7(i) above. 90% of the balance fuel and power purchase adjustment surcharge shall be recoverable automatically using the formula and the differential claim shall be recoverable after approval by the State Commission during true up.

20.8 The revenue recovered on account of pass-through fuel and power purchase adjustment surcharge by the distribution licensee, shall be true up later for the year under consideration and the true up for any financial Year shall be completed as per extant rule/ regulation.

20.9 In case of excess revenue recovered for the year against the fuel and power purchase adjustment surcharge, the same shall be recovered from the licensee at the time of true up along with its carrying cost to be charged at the rate approved by the Commission for working capital in the ARR determination of the relevant financial year and the under recovery of fuel and power purchase adjustment surcharge shall be allowed during true up, to be billed along with the automatic Fuel and Power Purchase Adjustment Surcharge amount.

20.10 The distribution licensee shall submit such details, in the stipulated formats, of the variation between expenses incurred and the fuel and power purchase adjustment surcharge recovered, and the detailed computations and supporting documents, as required by the State Commission, during true up of the normal tariff.

20.11 To ensure smooth implementation of the fuel and power purchase adjustment surcharge mechanism and its recovery, the distribution licensee shall ensure that the licensee billing system is updated to take this into account and a unified billing system shall be implemented to ensure that there is a uniform billing system irrespective of the billing and metering vendor through interoperability or use of open source software as available.

20.12 The licensee shall publish all details including the fuel and power purchase adjustment surcharge formula, calculation of monthly fuel and power purchase adjustment surcharge and recovery of fuel and power

purchase adjustment surcharge (separately for automatic and approved portions) on its website and archive the same through a dedicated web address.

20.13 Computation of Fuel and Power Purchase Adjustment Surcharge:

Formula:

$$\text{Monthly FPPAS for nth Month (\%)} = \frac{(A-B)*C + (D-E)}{\{Z * (1 - \text{Distribution losses in \%}/100)\} * \text{ABR}}$$

Where:

nth month means the month in which billing of fuel and power purchase adjustment surcharge component is done. This fuel and power purchase adjustment surcharge is due to changes in tariff for the power supplied in (n-2)th month.

A is Total units procured in (n-2)th Month (in kWh) from all Sources including Long-term, Medium-term and Short-term Power purchases (To be taken from the bills issued to distribution licensees).

B is bulk sale of power from all Sources in (n-2)th Month. (in kWh) = (to be taken from provisional accounts to be issued by State Load Dispatch Centre by the 10th day of each month).

C is incremental Average Power Purchase Cost= Actual average Power Purchase Cost (PPC) from all Sources in (n-2) month (Rs./ kWh) (computed) - Projected average Power Purchase Cost (PPC) from all Sources (Rs./ kWh)- (from tariff order)

D = Actual inter-state and intra-state Transmission Charges in the (n-2)th Month, (From the bills by Transcos to Discom) (in Rs)

E = Base Cost of Transmission Charges for (n-2)th Month. = (Approved Transmission Charges/12) (in Rs)

Z = [{Actual Power purchased from all the sources outside the State in (n-2) th Month. (in kWh)* (1 - Interstate transmission losses in % /100) + Power purchased from all the sources within the State(in kWh)}*(1 - Intra state losses in %/100) - B] in kWh

ABR = Average Billing Rate for the year (to be taken from the Tariff Order in Rs/kWh)

Distribution Losses (in %) = Target Distribution Losses (from Tariff Order) Inter-state transmission Losses (in %) = As per Tariff Order

20.14 The Power Purchase Cost shall exclude any charges on account of

Deviation Settlement Mechanism.

- 20.15 Other charges which include Ancillary Services and Security Constrained Economic Despatch shall not be included in Fuel and Power Purchase Adjustment Surcharge and adjusted though the true-up approved by the Commission.

PART-V

FINANCIAL PRINCIPLES

- 21. Component of ARR.**—The Aggregate Revenue Requirement (ARR) for the Distribution Business of the Distribution Licensee for each year of the Control Period, shall inter-alia contain but not limited to the following financial parameters:

- A. Quantum and Cost of power procurement in accordance with BERC (Power Purchase and Procurement Process of Licensee) Regulation, 2018 as amended from time to time.
- B. Transmission and load dispatch charges
- C. Operation and Maintenance expenses
- D. Depreciation
- E. Contingency Reserves
- F. Interest on loan and other finance charges
- G. Interest on Working Capital
- H. Return on Equity
- I. Bad debts, if any
- J. Non-Tariff Income; and
- K. Income from Other Business
- L. Interest on security deposit.

- 22. Operation & Maintenance Expenses.—**

- (a) The Commission shall stipulate a separate trajectory of norms for each of the components of O&M expenses viz., Employee cost, Repair and Maintenance (R&M) expense and Administrative and General (A&G) expense.

Provided that such norms may be specified for a specific Distribution Licensee or a class of Distribution Licensees.

- (b) Norms shall be defined in terms of combination of number of personnel per 1000 consumers and number of personnel per substation along with annual expenses per personnel for Employee expenses; combination of A&G expense per personnel and A&G expense per 1000 consumers for A&G expenses and R&M expense as percentage of gross fixed assets for estimation

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- of R&M expenses.
- (c) One-time expenses such as expense due to change in accounting policy and arrears paid due to pay commission recommendation shall be excluded from the norms in the trajectory.
 - (d) The unforeseen expenses beyond the control of the Distribution Licensee such as pay revision, shall be excluded from the norms in the trajectory.
 - (e) The One-time expenses and the expenses beyond the control of the Distribution Licensee shall be allowed by the Commission over and above normative Operation & Maintenance Expenses after prudence check.
 - (f) The norms in the trajectory shall be specified over the control period with due consideration to productivity improvements.
 - (g) The norms shall be determined at constant prices of base year and escalation on account of inflation shall be over and above the baseline. Provided that for the purpose of escalation based on Wholesale Price Index (WPI_n) and Consumer Price Index(CPI_n),WP In is to be computed based on the average yearly inflation derived based on the monthly Wholesale Price Index of the respective past three financial years(including the year of Truing-up)as per the Office of Economic Advisor Ministry of Commerce & Industry Government of India and CPI_n is to be computed based on the average yearly inflation derived based on the monthly Consumer Price Index for Industrial Workers(all-India) of the respective past three financial years(including the year of Truing-up)as per the Labour Bureau Government of India, at the time of filing of Petition.
 - (h) The Distribution Licensee specific trajectory of norms in terms of Regulation 7 shall be identified by the Commission on the basis of absolute and relative analysis.
 - (i) In absolute analysis, Distribution Licensee's audited accounts of operations for last three years, expenses claimed for control period, historically approved cost, and prudence check shall be used by the Commission to estimate values of norms.
 - (j) In relative analysis, performance parameters of other Distribution Licensees within the same state or in other states, shall be considered by the Commission to estimate norms.

Provided that other Distribution Licensees so chosen shall have similar profile as that of the Distribution Licensee under consideration in terms of consumer mix, type of license area (city, state, etc.) type of distribution networks, viz., underground/overhead, High Tension (HT) consumer, Low Tension (LT) consumer ratio, etc.

- (k) Suitable average of outcomes of absolute and relative analysis shall be taken by the Commission to fix the norms over the control period for the Distribution Licensee.

Employee Cost.— Employee cost shall be computed as per the approved norm escalated by consumer price index (CPI), adjusted by provisions for expenses beyond the control of the Distribution Licensee and one-time expected expenses, such as recovery/adjustment of terminal benefits, implications of pay commission, arrears and Interim Relief, governed by the following formula:

$$EMP_n = (EMP_b * CPI \text{ inflation}) + \text{Provision} \quad \text{Where:}$$

EMP_n: Employee expense for the year,

EMP_b: Employee expense as per the norm

CPI inflation: is the average increase in the Consumer Price Index (CPI) for immediately preceding three years.

Provision: Provision for expenses beyond control of the Distribution Licensee and expected one-time expenses as specified above.

Till the norms are specified by the Commission, the employee cost shall be determined on the basis of actual historical cost.

Repairs and Maintenance (R&M) Expense.— Repairs and Maintenance expense shall be calculated as percentage (as per the norm determined) of Opening Gross Fixed Assets excluding land cost for the year governed by following formula:

$$R\&M_n = K_b * GFAn$$

Where:

R&M_n: Repairs & Maintenance expense for nth year

GFAn: Opening Gross Fixed Assets for nth year

K_b: Percentage point as per the norm

Administrative and General (A&G) Expense.— A&G expense shall

be computed as per the norm escalated by wholesale price index (WPI) and adjusted by provisions for confirmed initiatives (IT etc. initiatives as proposed by the Distribution Licensee and validated by the Commission) or other expected one-time expenses, and shall be governed by following formula:

$A\&G_n = (A\&G_b * WPI_{inflation}) + Provision$ Where:

$A\&G_n$: A&G expense for the year n $A\&G_b$: A&G expense as per the norm

WPI inflation: is the average increase in the Wholesale Price Index (WPI) for immediately preceding three years

Provision: Cost of initiatives or other one-time expenses as proposed by the Distribution Licensee and validated by the Commission.

Till the norms of A&G expenses is specified by the Commission, the actual historical cost will be considered for determination of A&G expenses.

23. Treatment of Depreciation.—

- (a) Depreciation shall be calculated for each year of the control period on the original cost of the fixed assets of the corresponding year.
- (b) Depreciation shall not be allowed on assets funded by capital subsidies, consumer contributions or grants.
- (c) Depreciation shall be calculated annually on the basis of assets capitalised and put to use based on the straight line method over the useful life of the asset at rate not exceeding the rate specified by the Central Electricity Regulatory Commission for Transmission utility.
- (d) The residual value of assets shall be considered as 10% and depreciation shall be allowed to a maximum of 90% of the original cost of the asset.

The Distribution Licensee shall submit separate detail of fully depreciated asset along with year of commissioning and year of attaining ninety percent depreciation with the tariff petition.

Provided that freehold land shall not be treated as a depreciable asset and its cost shall be excluded while computing 90% of the original cost of the asset.

Provided further that cost of leasehold land shall be amortized evenly within the leased period.

- (e) Depreciation shall be charged from the first year of commercial operation of the asset. Provided that in case the operation of the asset is for a part of the year, depreciation shall be charged on proportionate basis.
- (f) A provision of replacement of assets shall be made in the capital investment plan.

24. Contribution to Contingency Reserve—

24.1 If the Distribution Licensee has made an appropriation to the Contingency Reserve, a sum not more than 0.5 per cent of the original cost of fixed assets at the beginning of the year shall be allowed annually towards such appropriation in the calculation of ARR.

Provided that where the amount of such Contingency Reserves exceeds five (5) per cent of the original cost of fixed assets, no further contribution shall be allowed.

Provided further that such contribution shall be invested in securities authorised under the Indian Trusts Act, 1882 within a period of six months of the close of the Year.

24.2 The Contingency Reserve shall not be drawn upon during the term of the license except to meet such charges as may be approved by the Commission, such as following:

- (a) Expenses or loss of profits arising out of accidents, strikes or circumstances which the management could not have prevented;
- (b) Expenses on replacement or removal of plant or works other than expenses required for normal maintenance or renewal;
- (c) Compensation payable under any law for the time being in force and for which no other provision is made:

Provided that such drawal from contingency reserve shall be computed after making due adjustment for any other compensation that may have been received by the Licensee as part of an insurance cover.

24.3 No diminution in the value of contingency reserve as mentioned above shall be allowed to be adjusted as a part of tariff.

25. Treatment of loan and other finance charges.—

- (a) The Distribution Licensee shall provide detailed loan-wise, project-wise and utilization-wise details of all the loans.

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- (b) If the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan. Provided that where equity actually deployed is less than 30% of the capital cost, the actual loan shall be considered for determination of interest on loan.
 - (c) Actual loan or normative loan, if any, shall be referred as gross normative loan in this Regulation.
 - (d) The normative loan outstanding as of 1st April of control period shall be computed by deducting the cumulative repayment as approved by the Commission (basis as mentioned below) up to 31st March of current period (a year before control period) from the gross normative loan.
 - (e) There payment for the control period shall be deemed to be equal to the depreciation allowed for the year.
 - (f) Notwithstanding any moratorium period availed by the Distribution Licensee, the repayment of the loan shall be considered from the first year of the control period as per annual depreciation allowed.
 - (g) The rate of interest shall be the weighted average rate of interest calculated on the basis of actual loan portfolio at the beginning of each year of the control period, in accordance with terms and conditions of relevant loan agreements, or bonds or non-convertible debenture.

Provided that if no actual loan is outstanding but normative loan is still outstanding, the last available weighted average rate of interest shall be applicable;

Provided further that if no actual loan is outstanding but normative loan is still outstanding and the last available weighted average rate of interest is also not available, rate of interest equal to the State Bank one-year Marginal Cost of Funds-based Lending Rate ('MCLR') shall be applicable;

Provided further that the interest on loan shall be calculated on the normative weighted average loan of the year by applying the weighted average rate of interest;

Provided also that exception shall be made for the existing loans which may have different terms as per the agreements already executed if the Commission is satisfied that the loan has been

- contracted for and applied to identifiable and approved projects;
- (h) The Distribution Licensee shall make every effort to refinance the loan as long as it results in net benefit to the consumers.

Provided that the cost associated with such refinancing shall be eligible to be pass through in tariffs and the benefit on account of refinancing of loan and interest on loan shall be shared in the ratio of 50:50 between the Distribution Licensee and the consumers. Provided further that the Distribution Licensee shall submit the calculation of such benefit to the Commission for its approval.

- (i) The Distribution Licensee shall enable tracking of the loans converted into grants under schemes like R-APDRP, RGGVY, DDUGJY, IPDS etc. or any other loan from the Central or State Government by providing information and data regularly to the Commission, for enabling the Commission to recover from Distribution Licensee the amount of interest on loans which have been passed on to the consumers in the earlier years and have been converted into grant subsequently so that the recovered amount is passed on to the consumers..
- (j) Addition to loan during the year for Interest purpose will be restricted to the quantum of assets capitalized and put to use out of actual or normative loan.
- (k) Details of expenses on account of rebates for prompt payment, Power factor rebate for maintaining power factor above 0.90, other finance charges, guarantee fee etc except refinancing charges shall also be separately filed by the licensee with the ARR under the head "Interest on loan and other finance charges".

Interest during Construction (IDC).—

- (i) Interest during construction shall be computed corresponding to the loan from the date of infusion of debt fund, and after taking into account the prudent phasing of funds up to Scheduled Date of Commercial operation (SCOD).
- (ii) In case of additional costs on account of IDC due to delay in achieving the SCOD, the Licensee shall be required to furnish detailed justifications with supporting documents

for such delay including prudent phasing of funds.

Provided that if the delay is not attributable to the Licensee and is due to uncontrollable factors as specified in these regulations, IDC may be allowed after due prudence check.

Provided further that only IDC on actual loan may be allowed beyond the SCOD to the extent, the delay is found beyond the control of licensee after due prudence and taking into account prudent phasing of funds.

Incidental Expenditure during Construction (IEDC).—

- (i) Incidental expenditure during construction shall be computed from the zero date and after taking into account pre-operative expenses up to Scheduled Date of Commercial operation (SCOD).

Provided that any revenue earned during construction period up to SCOD on account of interest on deposits or advances, or any other receipts may be taken into account for reduction in incidental expenditure during construction.

- (ii) In case of additional costs on account of IEDC due to delay in achieving the SCOD, the licensee shall be required to furnish detailed justification with supporting documents for such delay including the details of incidental expenditure during the period of delay and liquidated damages recovered or recoverable corresponding to the delay.

Provided that if the delay is not attributable to the licensee and is due to uncontrollable factors as specified in these regulations, IEDC may be allowed after due prudence check.

Provided further that where the delay is attributable to an agency or contractor or supplier engaged by the licensee, the liquidated damages recovered from such agency or contractor supplier shall be taken into account for computation of capital cost.

- (iii) In case the time over-run beyond SCOD is not admissible after due prudence, the increase of capital cost on account of cost variation corresponding to the period of time over

run may be excluded from capitalization irrespective of price variation provisions in the contracts with supplier or contractor of the licensee.

26. Interest on Working Capital.— The Distribution Licensee shall be allowed interest on estimated level of working capital for the financial year, computed as follows:

- (a) 45 days equivalent of expected revenue.
 - (b) Maintenance spares@ 40% of R&M expenses for one month
- Less:
- (i) Power purchase cost, transmission charges and load dispatch charges For one month.
 - (ii) Depreciation, return on equity and contribution to contingency reserves equivalent to 45 days.
 - (iii) Amount of security deposits and advance from consumers or Distribution System users, if any, held during the year.

Provided that the interest on working capital shall be on normative basis and rate of interest shall be equal to the State Bank one-year Marginal Cost of Funds-based Lending Rate ('MCLR') as of the date on which petition for determination of tariff is filed plus 150 basis points. The rate of interest for the purpose of Truing-up shall be the weighted average MCLR of the concern Financial Year plus 150 basis points.

Provided further that interest shall be allowed on consumer security deposits and security deposits from Distribution System users held during the year at the rate as of the date on which petition for determination is filed. The interest allowed shall be subject to true up at weighted average Bank Rate of the concern Financial Year.

Provided also that if the State Government is providing resource gap grant and/or direct subsidy to consumers, the working capital shall be reduced by 45 days equivalent of that amount.

27. Treatment of Return on equity.—

- (a) Return on equity shall be computed on 30% of the capital base or actual equity, whichever is lower.

Provided that assets funded by consumer contribution, capital subsidies/grants and corresponding depreciation shall not form part of the capital base. Actual equity invested in the Distribution Licensee as per book value shall be considered as

perpetual and shall be used for computation in this Regulation.

Provided further that the premium if any raised by the Licensee while issuing share capital and investment of internal resources created out of its free reserves, for the funding of the Scheme, shall be reckoned as paid up capital for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilized for meeting the capital expenditure of the distribution system, and are within the ceiling of 30% of capital cost approved by the Commission.

- (b) The return on the equity invested shall be allowed from the date of start of commercial operation after put to use.
- (c) Rate of return on equity shall be allowed not more than 14.0% for all projects. However, further incentive equivalent to 0.5% will be allowed in the form of RoE, if the project is completed within original schedule period.

28. *Bad and Doubtful Debts.*—Bad and Doubtful Debts shall be allowed as a legitimate business expense provided the distribution licensee actually identifies and writes off bad debts as per the transparent policy approved by the Commission. In case there is any recovery of bad debts already written off, the recovered bad debt will be treated as other income as an uncontrollable item.

29. *Tax on Return on Equity.*—

29.1 The base rate of return on equity as allowed by the Commission under Regulation 27 shall be grossed up with the effective tax rate of the respective financial year. For this purpose, the effective tax rate shall be considered on the basis of actual tax paid in the respect of the financial year in line with the provisions of the relevant Finance Acts by the concerned the Distribution Licensee, as the case may be. The actual tax on income from other business including deferred tax liability (i.e. income on business other than business of distribution, as the case may be) shall not be considered for the calculation of effective tax rate.

29.2 Rate of return on equity shall be rounded off to two decimal places and shall be computed as per the formula given below:

$$\text{Rate of pre-tax return on equity} = \text{Base rate} / (1 - t)$$

Where “t” is the effective tax rate in accordance with Clause (1) of this regulation and shall be calculated at the beginning of every financial year based on the estimated profit and tax to be

paid estimated in line with the provisions of the relevant Finance Act applicable for that financial year to the company on pro-rata basis by excluding the income of non-distribution business and the corresponding tax thereon. In case of licensee paying Minimum Alternate Tax (MAT), “t” shall be considered as MAT rate including surcharge and cess.

Illustration:-

- (i) In case of the licensee paying Minimum Alternate Tax(MAT) @ 20.96% including surcharge and cess:

$$\text{Rate of return on equity} = 14 / (1 - 0.2096) = 17.71\%$$

- (ii) Incase of licensee paying normal corporate tax including surcharge and cess:

- (a) Estimated Gross Income from the licensee business for FY 2017-18 is Rs 1000 crore.

- (b) Estimated Advance Tax for the year on above is Rs 240crore.

- (c) Effective Tax Rate for the year 2017-18= Rs 240 Crore/Rs 1000 Crore = 24%

- (d) Rate of return on equity= $14 / (1 - 0.24) = 18.42\%$

The Licensee shall true up the grossed up rate of return on equity at the end of every financial year based on actual tax paid together with any additional tax demand including interest thereon, duly adjusted for any refund of tax including interest received from the income tax authorities pertaining to the tariff period 2025-26 to 2027-28 on actual gross income of any financial year. However, penalty, if any, arising on account of delay in deposit or short deposit of tax amount shall not be claimed by the Licensee. Any under-recovery or over-recovery of grossed up rate of return on equity after truing up, shall be recovered or refunded to beneficiaries on year to year basis.

30. Non-Tariff Income.—

- (a) All incomes being incidental to electricity business and derived by the Licensee from sources, including but not limited to profit derived from disposal of assets, income from rent of land and buildings, delayed payment surcharge, meter rent (if any), income from investments other than contingency reserves, interest income on advance to suppliers and contractors, income from rent from staff

quarters, income from rent from contractors, income from hire charges from contractors and others, supervision charges for capital works, income from recovery against theft and/or pilferage of electricity, income from advertisements, income from sale of tender documents, miscellaneous receipts from the consumers.

Provided that Delayed Payment Surcharge to the extent of financing cost on the principal amount corresponding to the Delayed Payment Surcharge shall not be treated as non-tariff income. The financing cost on the principal amount corresponding to the Delayed Payment Surcharge shall be allowed at weighted average MCLR of the concern Financial Year plus 150 basis points.

Provided further that the interest earned from investments made out of Return on Equity corresponding to the regulated Business of the Distribution Licensee shall be included in Non-Tariff Income.

- (b) The amount received by the Licensee on account of Non-Tariff Income shall be deducted from the Aggregate Revenue Requirement in calculating the net revenue requirement of Distribution Licensee.

31. *Income from Other Business.*—Where the Distribution Licensee is engaged in any other business, the income from such business will be deducted from the Aggregate Revenue Requirement in calculating the revenue requirement of the Licensee in the manner and in proportion as may be specified by the Commission in BERC (Treatment of Income of Other Businesses of Transmission Licensees and Distribution Licensees) Regulations, 2013, as amended from time to time.

Provided that the Licensee shall follow a reasonable basis for allocation of all joint and common costs between the Distribution Business and the Other Business and shall submit the Allocation Statement as approved by the Board of Directors to the Commission along with the application for determination of tariff;

Provided further that where the sum total of the direct and indirect costs of such Other Business exceed the revenues from such Other Business or for any other reason, no amount shall be allowed to be added to the Aggregate Revenue Requirement of the Distribution Licensee on account of such Other Business.

32. *Treatment of Regulatory Assets.*—

- (a) Regulatory assets shall not be created against cost/loss incurred

in normal course of business except in case of natural calamity or forced majeure conditions and extraordinary situations as the Commission deems fit and proper.

- (b) The amortization schedule corresponding to the regulatory asset shall be approved by the Commission and put in effect along with creation of the regulatory asset. The amortization schedule shall normally provide for recovery of the regulatory asset within a period not exceeding seven years.
- (c) The carrying cost of the regulatory asset shall be in line with the State Bank one-year Marginal Cost of Funds-based Lending Rate ('MCLR') for the tenure for which regulatory asset has been created plus 150 basis points.

33. Late Payment Surcharge: -

The applicability and modalities of Late payment Surcharge payable by the distribution licensee(s) shall be in accordance with the Electricity (Late Payment Surcharge), Rules 2021, as amended from time to time.

PART-VI

WHEELING AND RETAIL SUPPLY BUSINESS

34. Segregation of Wheeling Business and Retail Supply Business.—

Every Distribution Licensee shall maintain separate accounting records for the Wheeling Business and Retail Supply Business and shall prepare an Allocation Statement to enable the Commission to determine the Tariff separately for:—

- (a) Wheeling Business;
- (b) Retail Supply of electricity:

Provided that in case complete accounting segregation has not been done between the Wheeling Business and Retail Supply Business of the Distribution Licensee, the Commission shall stipulate the ratio of allocation of the Aggregate Revenue Requirement of the Distribution Licensee based on data obtained from the Distribution Licensees. The following broad principles shall be followed for allocation of costs towards wheeling business and supply business, out of the total annual Aggregate Revenue Requirements determined:

Power purchase cost shall be allocated to the Retail Supply business. Operation and Maintenance expenses shall be segregated between wheeling and retail supply businesses in such manner as may be determined by the Commission;

Majority of the capital expenditure related expenses, viz., depreciation, interest and return on equity, shall be included under the wheeling business;

Explanation–

The Retail Supply Business would require only a small component of the capital expenditure towards billing and collection activity.

35. Target Availability and Recovery of ARR.—

- (a) Recovery of the annual Aggregate Revenue Requirement determined as per the norms under these regulations shall be based on achievement of the target availability index as under:

The Availability index shall be computed for both Wheeling Business and Retail Supply Business of the Distribution Licensee on yearly basis as per following:

For Wheeling Business:

Wheeling Network Availability Index (%) = $(1 - (\text{SAIDI}/8760)) \times 100$ Where,

SAIDI = Sum of all customer interruption durations/Total number of consumers served

For Retail Supply Business:

The Supply Availability shall be measured on the basis of power contracted by the Distribution Licensee on a long-term basis as per the power procurement plan under following heads:

Base Load Supply Availability = $((\text{Actual Contracted Base Load Supply (MW)} \times (\text{Number of Off-Peak hours})) / ((\text{Base Load in MW}) \times (\text{Number of Off-Peak hours})))$ Peak Load Supply Availability =

$((\text{Actual Contracted Peak Load Supply (MW)} \times (\text{Number of Peak hours})) / ((\text{Peak Load in MW}) \times (\text{Number of Peak hours})))$ Supply Availability Index = 75% of Base Load Supply Availability + 25% of Peak Load Supply Availability

- (b) The Distribution Licensee shall maintain data on planned maintenance outages, load shedding, force majeure outages and trippings.
- (c) The incentive/disincentive shall exclude the circumstances when the actual supply differs from the contracted supply due to force majeure situations, weather conditions, extreme monsoon failure,

station outages, etc. which are beyond the control of the Distribution Licensee.

- (d) The Commission shall specify progressively increasing normative levels of Availability for Wheeling and Supply Business of the Distribution Licensee on the basis of past performance over the control period.

Provided that the Availability of Retail Supply Business shall not be lower than 90% and shall gradually increase to 95% or 98% in no less than three years.

- (e) The incentive/disincentive shall be considered as +/- 0.2% of ARR for every percentage point increase/decrease in Availability vis-à-vis the normative levels of availability.

Provided that, the maximum incentive/disincentive shall be limited to +/- 2% of ARR.

36. Subsidy:-

- (a) The Commission shall determine the ARR and Tariff without considering subsidy.

Provided that if the State Government declares subsidy for the categories of consumers after notification of Tariff Order, the licensee shall incorporate the same in the tariff and intimate the Commission with the revised Tariff Schedule that shall be charged if the subsidy is received in advance.

Provided further that in case the State Government declares subsidy in advance or during tariff filing proceedings and the licensee incorporates the subsidy in the petition, the Commission shall notify two tariff schedules, one with subsidy and the other without subsidy.

Provided also that the Government's subsidy provided for or declared shall be supported by documentary evidence of time schedule of payment, mode of the payment of the subsidy and categorization of the subsidy amount into subsidized consumer categories.

- (b) The Commission may clarify in the tariff order, post the declaration from the Government, the quantum of Government's subsidy as applicable to the fuel cost adjustment along with the range (%) of variable cost upto which the fuel adjustment cost shall not be passed to the consumers, category wise classification,

mode of payment and schedule of payment etc.

- (c) In case of no disbursement or delayed disbursement of subsidy by the Government, the licensee shall charge consumers as per the tariff schedule which is approved by the Commission without consideration of subsidy.
- (d) In case the amount of subsidy by the Government is not utilized in full, the balance amount of subsidy amount shall be used for adjusting in ARR of the ensuing year(s).

Provided that in case the Government directs to utilize such unutilized balance of subsidy in some other manner, the same shall not be used for adjusting in the ARR of the relevant year(s).

- (e) The accounting ***of the subsidy*** payable under section 65 of the Act, shall be done by the distribution licensee, ***in accordance with the Standard Operating Procedures issued by the Central Government***, in this regard.
- (f) The Commission shall issue a quarterly report for each distribution licensee, in its jurisdiction, giving findings whether demands for subsidy were raised by the distribution licensee in the relevant quarter based on accounts of the energy consumed by the subsidised category and consumer category wise per unit subsidy declared by the State Government, the actual payment of subsidy in accordance with section 65 of the Act and the gap in subsidy due and paid as well as other relevant details.
Explanation: The term “Unit” means Kilo Watt Hour (kWh) or Kilo Watt (kW) or Horse Power (HP) or Kilo Volt Ampere (kVA), in accordance with the relevant Regulations or the Tariff Orders issued by the Commission.
- (g) The quarterly report shall be submitted by the distribution licensee within thirty days from end date of the respective quarter.
- (h) If subsidy accounting and the raising bills for subsidy is not found in accordance with the Act or Rules or Regulations issued there under, **appropriate action shall be taken against the concerned officers of the licensee for non-compliance as per provisions of the Act.**

37. Cross Subsidy, Allocation of Cost to Serve and Tariff Design.—

- (a) The Commission shall notify a roadmap for reduction of cross subsidies within control period. The road map shall also have intermediate milestones, based on the approach of a gradual reduction in cross subsidy.
- (b) The Distribution Licensee shall compute the consumer category-wise cost of supply as per the methodology elaborated below.
- (c) The additional surcharge levied on any Open Access Consumer shall not be more than the per unit fixed cost of power purchase of the distribution licensee concerned:

Provided that for a person availing General Network Access or Open Access, the additional surcharge shall be linearly reduced from the value in the year in which General Network Access or Open Access was granted so that, if it is continued to be availed by this person, the additional surcharge shall get eliminated within four years from the date of grant of General Network Access or Open Access.

Provided further that the additional surcharge shall not be applicable for Open Access Consumer to the extent of contract demand being maintained with the distribution licensees.

Provided also that the additional surcharge shall be applicable only for the Open Access Consumers who are or have been consumers of the concerned Distribution licensee.

Explanation.— For the purpose of this rule, General Network Access and Temporary-GNA shall have the same meaning as defined in the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 as amended from time to time.

- (d) Allocation of Cost: The Cost to serve shall be allocated to the consumer categories in the following manner:

Step 1: Functionalization of Cost - Total cost shall be divided on the basis of functions performed such as power purchase, transmission, distribution etc.

The additional surcharge levied on any Open Access consumer shall not be more than the per unit fixed cost of power purchase of the distribution licensee concerned.

Provided that a person availing General Network Access or Open Access, the additional surcharge shall be linearly reduced from the value in the year in which General Network Access or Open Access is granted so that, if it is continued to be availed by this person, the additional surcharge shall get eliminated within four year from the date of grant of GNA or OA

Step 2: Classification of Cost—Each of the functionalized costs shall be further classified, based on its intrinsic nature into Demand related cost, Energy related cost, and Customer related cost. Demand related costs shall generally be of fixed nature, related to capacity creation and shall include interest on capital borrowing, depreciation, etc. Energy cost shall be related to quantum of electricity consumption of consumer, such as fuel cost, interest on working capital, etc. Consumer related cost shall include operating expenses associated with meter reading, billing, and accounting.

Step 3: Allocation of Cost.—

- (i) Allocation of Demand Costs : Demand costs of all three functions shall be allocated among consumer categories on the basis of average coincident peak demand of the tariff categories (average of past 12 months). To facilitate determination of average coincident peak demand for the various tariff categories, load research shall be made an integral part of the operations of the DISCOMs and systematic load research exercises shall be initiated.
- (ii) Allocation of Energy Costs: Energy related costs of Distribution functions shall be allocated to consumer categories on the basis of ratio of electricity consumption of each consumer category to the total electricity consumption under the purview of the Distribution Licensee. Energy related costs of Power purchase shall be allocated to various tariff categories on the basis of block approach on merit order dispatch and incremental principle, where each tariff category shall be allocated the incremental (energy related) power purchase cost on the basis of their respective share in the incremental power purchase. For the purpose of operationalising the block approach and incremental

principle, the Commission shall identify and notify a suitable year as the "base year".

- (iii) Allocation of Customer Costs: Customer related costs shall be allocated to consumer categories on the basis of the ratio of number of consumers in each category to total number of consumers under the purview of the Distribution Licensee.
- (e) Summation of allocated Demand cost, Energy cost and Customer cost across functions shall be total Cost to serve for respective consumer categories. Cost to serve reduced by revenue from a consumer category shall give total subsidy for that category. Total subsidy for a consumer category reduced by Government subsidy, if any, shall be cross-subsidy for that consumer category.
- (f) The consumers below poverty line who consume power below a specified level, as determined by the commission in Tariff Order, shall receive a special support through cross subsidy.
- (g) **Cross-subsidy surcharge and additional surcharge in Open Access.—**

- (i) The amount received or to be received by the licensee on account of cross-subsidy surcharge and additional surcharge, as approved by the Commission from time to time in accordance with the Regulations specified by the Commission, shall be shown separately against the consumer category that is permitted open access as per the phasing plan.
- (ii) Cross-subsidy surcharge and additional surcharges shall be shown as revenue from the tariff from the consumer categories who have been permitted open access and such amount shall be utilized to meet the cross-subsidy requirements of subsidized categories and fixed costs of the Distribution Licensee arising out of his obligation to supply.

Provided that, the licensee shall provide such details in its annual fillings.

- (iii) The surcharge payable by the consumers permitted for open access shall be computed as per following formula:

$$S=T-[C/(1-L/100)+D+R];$$

Where S is the surcharge

T is the tariff payable by the relevant category of consumers,

including reflecting the Renewable Purchase Obligation.

C is the per unit weighted average cost of power purchase by the Licensee, including the cost of meeting the Renewable Purchase Obligation.

D is the aggregate of transmission, distribution, and wheeling charge applicable to the relevant voltage level.

L is the aggregate of transmission (including CTU), distribution, and commercial losses, expressed as a percentage applicable to the relevant voltage level.

R is the per unit cost of carrying regulatory assets.

However, taking into consideration the overall objectives of the Electricity Act and the power scenario in the licensee's area, the Commission may determine the surcharge either lower or higher than surcharge computed using the formula provided above.

Provided that the surcharge shall not exceed 20% of Average Cost of Supply for the consumers seeking open access.

(h) **Tariff Design.—**

- (1) The tariff design shall be in accordance with Bihar Electricity Regulatory Commission (Fixation of Charges for Supply of Electricity by Distribution Licensee) Regulations, 2018.
- (2) The Commission shall be guided by the objective that the tariff progressively reflects the efficient and prudent cost of supply of electricity.
- (3) After the costs have been allocated based on the method specified in clauses (c) and (d) above, tariffs for different consumer categories shall be designed with due regard to factors provided under section 62(3) of the Act.
- (4) The time of day tariff would be structured across three times slabs to denote normal, peak and off-peak periods. The time-periods would vary according to different seasons of the year i.e. summer, winter and the monsoon season.
- (5) The peak and off-peak hours during seasons shall be as notified by the State Load Dispatch Centers in advance.
- (6) The Time of Day tariff for Commercial and Industrial consumers having maximum demand more than ten Kilowatt shall be mandatory and other consumers except agricultural consumers, the Time of Day tariff shall be made effective not

later than 1st April, 2025 and a Time of Day tariff shall be made effective immediately after installation of smart meters, for the consumers with smart meters.

Provided that, the Time of Day Tariff specified by the Commission for Commercial and Industrial consumers during peak period of the day shall not be less than 1.20 times the normal tariff and for other consumers, it shall not be less than 1.10 times the normal tariff:

Provided further that, tariff for solar hours of the day, specified by the Commission in respective tariff orders shall be at least twenty percent less than the normal tariff for that category of consumers:

Provided also that the Time of Day Tariff shall be applicable on energy charge component of the normal tariff:

Provided also that the duration of peak hours shall not be more than solar hours as specified by the Commission in respective tariff orders.

PART-VII

MISCELLANEOUS

- 38. *Power to amend.***—The Commission may, at anytime, amend, alter or modify any provision of these Regulations.
- 39. *Power to remove difficulties.***—If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.
- 40. *Right to vary terms and conditions.***—The terms and conditions for determination of tariff specified in these regulations are in the nature of general framework on the basis of which the tariff shall be determined. The Commission reserves its right to vary these terms and conditions, as and when deems fit.
- 41. *Limitation of Power of Commission.***—Nothing in these regulations shall be deemed to limit the powers of the Commission to deal with any matter or exercise any power under the relevant Acts for which no regulations have been made / framed and to make such orders as it may consider appropriate to meet the ends of justice in any case.

42. Repeal and savings.—

- (a) Save as otherwise provided in these regulations, BERC (Multi Year Distribution Tariff) Regulations, 2021, and its amendments thereof from time to time are hereby repealed.
- (b) Notwithstanding such repeal, any proceedings before the Commission pertaining to the period prior to the commencement of the fourth Control Period, including Petitions filed for True up of expenses, annual performance review, etc. shall be governed by the erstwhile regulations.

By order of the Commission,

Sd/-

Secretary