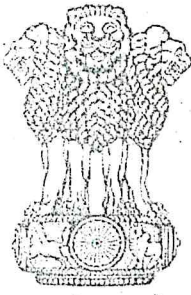


Tata Power Delhi Distribution Limited

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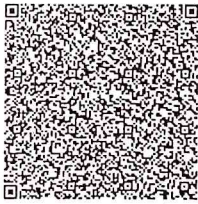
सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

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Certificate No. : IN-DL08131500400013V
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 Purchased by : TATA POWER DELHI DISTRIBUTION LTD
 Description of Document : Article 4 Affidavit
 Property Description : Not Applicable
 Consideration Price (Rs.) : 0
 (Zero)
 First Party : TATA POWER DELHI DISTRIBUTION LTD
 Second Party : Not Applicable
 Stamp Duty Paid By : TATA POWER DELHI DISTRIBUTION LTD
 Stamp Duty Amount(Rs.) : 10
 (Ten only)



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BEFORE THE HON'BLE DELHI ELECTRICITY REGULATORY COMMISSION

FILE NO:

CASE NO:



NOT THE MATTER OF:

PETITION NO. _____ OF 2023

IN THE MATTER OF:

Petition for ARR FY 2023-24.

Notary Alert:

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TATA POWER DELHI DISTRIBUTION LTD TATA POWER DELHI DISTRIBUTION LTD TATA POWER DELHI DISTRIBUTION LTD TATA POWER DELHI DISTRIBUTION LTD TATA POWER DELHI DISTRIBUTION LTD

AND

IN THE MATTER OF:

Relevant Provisions of the Electricity Act, 2003 read with Delhi Electricity Reforms Act, 2000 and DERC (Terms and conditions for determination of Tariff) Regulations, 2017 read with DERC Comprehensive Conduct of Business Regulations, 2001 read with DERC Business Plan Regulations, 2023.

AND

IN THE MATTER OF:

Tata Power Delhi Distribution Limited (Formerly known as North Delhi Power Limited) having its registered office at NDPL House, Hudson Lines, Kingsway Camp, Delhi-110 009

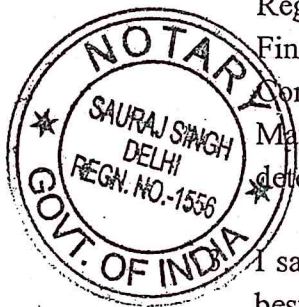
...Petitioner

AFFIDAVIT ON BEHALF OF PETITIONER/ TATA POWER DELHI DISTRIBUTION LIMITED (TPDDL)

I, **Anurag Bansal**, son of Sh. P.C Bansal, aged about 46 years, residing at C-160, Ashok Vihar, Phase- I, New Delhi-110052, do hereby solemnly affirm as stated hereunder:

1. I say that I am working as Additional GM, Corporate Legal with Tata Power Delhi Distribution Limited, the Petitioner in the above matter, having its registered office at NDPL House, Hudson Lines, Kingsway Camp, Delhi-110009, and am duly authorised by the said Petitioner to execute the said affidavit on its behalf.
2. I say that the present Petition is being filed by the Petitioner in terms of the Electricity Act, 2003, Delhi Electricity Reforms Act, 2000 read with the Hon'ble Commission's (Terms and Conditions for Determination of Tariff) Regulations 2017, DERC Business Plan Regulations 2023, DERC Comprehensive Conduct of Business Regulations, 2001 read with Hon'ble Commission's letter F.3(656)/Tariff-Fin./DERC/2021-22/7212 (part file)/193 dated 28th April 2023, [whereby Hon'ble Commission directed Delhi utilities to submit ARR Petition for FY 2023-24 by 22nd May 2023], to seek approval of the Hon'ble Commission for undertaking determination of ARR for FY 2023-24.

I say that the statements made and data presented in enclosed petition are true to the best of my knowledge and as per the records of the Petitioner Company and



A handwritten signature in black ink, appearing to be "Anurag Bansal".

information, estimations received and believed to be true. Further, no material information has been concealed in this aforesaid Petition.

ANURAG BANSAL
Addnl. GM-Corporate Legal
Tata Power Delhi Distribution Ltd.
NDPL House, Hudson Lines,
Kingsway Camp, Delhi-110009
DEPONENT

VERIFICATION:

I, the Deponent above named, do hereby verify that the contents of my above affidavit are true to my knowledge and belief and no part of it is false and nothing material has been concealed there from.

19 MAY 2023

Verified at New Delhi on this _____ day of _____, 2023

DEPONENT

ANURAG BANSAL
Addnl. GM-Corporate Legal
Tata Power Delhi Distribution Ltd.
NDPL House, Hudson Lines,
Kingsway Camp, Delhi-110009

Delhi

Date:



ATTESTED

**NOTARY PUBLIC
DELHI (INDIA)**

19 MAY 2023



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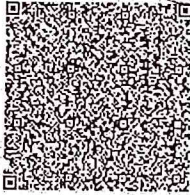
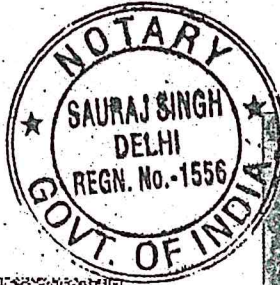
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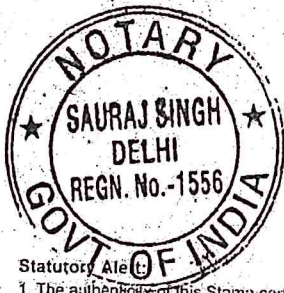
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Second Party	: Not Applicable
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Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



192/021
St. No. _____
A NOTARY REGISTERED

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This stamp paper has been used to sign this
Power of Attorney at New Delhi.



[Handwritten Signature]

Statutory A/c

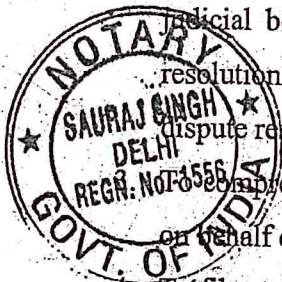
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POWER OF ATTORNEY

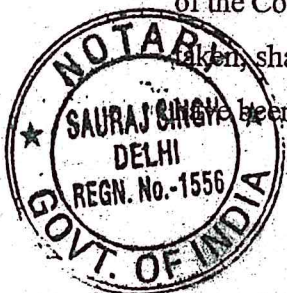
By this power of attorney **Tata Power Delhi Distribution Limited** a body corporate incorporated under the Companies Act, 1956 and having its registered Office at NDPL House , Hudson Lines, Kingsway Camp, Delhi-110009 (hereinafter referred to as the '**Company**') acting through **Shri Ganesh Srinivasan S/o, Shri Srinivasan Appaswami** (hereinafter referred as the '**Executant**'), being the Chief Executive Officer (CEO) of the company and holder of Power of Attorney given by the Company and adopted by its Board of Directors on 22.10.2019 hereby appoints **Sh. Anurag Bansal** son of Sh. P C Bansal, aged about 45 years, resident of C- 160 Ashok Vihar Phase-1 Delhi - 110052 and working with the Company as Head – Corporate Legal vide Employee No. 91079 as the company's Attorney (hereinafter referred to as the '**Attorney**') and to exercise following powers and authorities and to do and perform all or any of the acts , deeds , matters and things herein under specified on behalf of company that is to say :

1. To institute, verify and submit before any court of law or judicial / *Quasi-judicial* forum; any pleadings, documents or information including but not limited to petitions, complaints, criminal complaints, plaints, applications, eviction proceedings, representations, memoranda, appeals, statements of claim, counter claims, set off, execution petitions, replies, written statements, rejoinders, replications, evidence, affidavits, cross objections, counters, review, revision, application for withdrawal of cases, statements of defence, notices, references for arbitration, petitions for setting aside arbitral award and/or to commence, defend and prosecute any legal proceedings or use any other lawful means in order to safeguard the interest or enforce the rights of the Company;
2. To act, appear, plead, argue, file cases, before any Courts, State Electricity Regulatory Commission, Appellate Tribunal for Electricity, Central Electricity Regulatory Commission, Metropolitan Magistrates, Appellate Authority(ies), Forums, Tribunals, Commissions, *Quasi-judicial* bodies, authorities, boards, bureaus and/or any conciliatory, pre-litigative dispute resolution bodies, mediation cells, Lok Adalats, public hearing forums or other alternate dispute resolution channels dealing with matters pertaining to the Company :
compromise, settle, withdraw, make plea-bargaining applications or compound any cases on behalf of and in the interest of the Company;
4. To file and receive documents; to obtain copies of the documents and court orders, awards or the like;
5. To act, appear, plead, argue and lead evidence, settlements or seek enforcement thereof on behalf of the Company before any Arbitral Tribunal; mediator, settlement body or conciliator

172/021
SI. NO. ---
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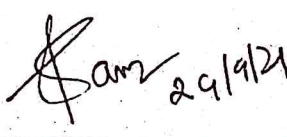
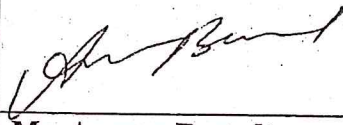


- dealing with cases under Arbitration and Conciliation Act, 1996 and to examine and cross-examine witnesses therein and challenge awards;
6. To act, appear, plead and argue on behalf of the Company or its officers and employees before all Civil Courts dealing with matters pertaining to the Company or its officers or employee and to examine and cross-examine witnesses therein;
 7. To do all other lawful acts and deeds which may be necessary to be done in relation to the above and the Company doth undertake to ratify all such acts, deeds and things as may be lawfully and reasonably performed by the said Attorney in terms of the authorization herein contained;
 8. To sign 'Vakalatnama' and appoint advocates or to represent the Company before the Courts as mentioned above;
 9. To sign the appeal written statement or replies to the petitions / applications / complaints cross examine witnesses etc.
 10. To do all other lawful acts and deeds which may be necessary to be done in the course of the proceedings before the Courts, and other authorities & Forums, tribunals as aforesaid and Company do hereby agrees that all the acts and deeds lawfully done and performed by the above said Attorney in that regard shall be constituted as the acts and deeds done by the Company itself. The Company again doth undertake to ratify and confirm whatsoever that the said Attorney shall lawfully do or cause to be done for the Company solely by virtue of the powers hereby vested.
 11. This Power of Attorney shall supersede any previous attorney and/or authorization executed by the Company (Formerly, North Delhi Power Limited) in favour of the Attorney to do and perform any of the acts which are authorized under this Attorney. Anything done or any action taken or purported to have been done or taken under any such previous power of attorney and/or authorization, shall, in so far as it is not inconsistent with this Power of Attorney, be deemed to have been done under the provisions of this Power of Attorney.
 12. The Company ratifies any past lawful act of the Attorney in his lawful capacity as the Employee of the Company and anything done or any such action taken or purported to have been done or taken, shall, in so far as it is not inconsistent with this Power of Attorney, shall be deemed to have been done under the provisions of this Power of Attorney.



13. This Power of Attorney shall remain in force until revoked or till the time said Attorney is in employment of the Company, however, any such revocation shall not affect, any act, thing or deed lawfully done by said Attorney till then in *bonafide* exercise of authority conferred herein.

IN WITNESS WHEREOF THE EXECUTANT HEREBY SCRIBES HIS HAND TO THE ABOVE PRESENTS AT DELHI ON THIS 24th DAY OF September 2021

Executed by	Accepted by	Signatures of the Attorney are identified and attested by the Executant
		
Mr. Ganesh Srinivasan	Mr. Anurag Bansal	
Chief Executive Officer Executant	Head - Corporate Legal Attorney	

172/02
SI. NO
NOTARY REGISTER

In presence of :

Witness :

Signatures 

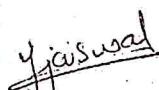
Name

Shefali Sesti

Address

NDPL House, Kingsway Camp, New Delhi.

Witness :

Signatures 

Name

Lovika Jaiswal

Address

NDPL House, Kingsway Camp, ND.



Notarial Authentication under Section 85 of Indian Evidence Act 1872

I Sauraj Singh s/o Sh. Latif Jai & Rajender
R/o 24/27 Wining 75 Hogen aged 28 about 67 years, I am a
licensed Notary Public of the Government of India under the Notaries Act, 1952, and at present
operating in Delhi.

I was this 24-9 day of 2021 present at the Registered Office of the Company at
NDPL House, Hudson Lines, Kingsway Camp, Delhi 110009 along with the Executant namely
Shri Ganesh Srinivasan who is working there as Chief Executive Officer, the Attorney namely
Anurag Bansal and Shri Ajay Kalsie, the Company Secretary of the
Company.

The Executant has produced before me his original Voter's Identity Card/Passport/Driving License,
which bears his photograph, name, father's name, date of birth and present residential address.

The Executant has also produced before me the certified copy of Power of Attorney dated
29.01.2020 issued by Board of Directors of the Company affirming that the Executant is at the time
of execution of this Power of Attorney, duly authorized by the Board of Directors of the company to
execute the same being its constituted attorney and CEO.

The present Power of Attorney, executed by the Executant herein, authorizing Attorney to do all
the acts and deeds as recited therein was signed by the Executant and the rubber stamp of the
Company was affixed on the instrument in my presence so described and in the presence of Shri
Ajay Kalsie, the Company Secretary of the Company and that the signatures purporting to be that
of the Executant as subscribed at the foot of the foregoing Power of Attorney is in the proper
handwriting of the said Executant.

I, therefore, certify and authenticate that this Power of Attorney is in due form of law, in witness
whereof, I have hereunto set my hand and affixed my Seal on this 24/9/21 day of 2021.

Notary Public
Delhi



ATTESTED

NOTARY PUBLIC
DELHI (INDIA)

24 SEP 2021

Mr. Ajay Kalsie
Company Secretary
Tata Power Delhi Distribution Limited

PETITION SEEKING (i) ARR for FY 2023-24, the FIRST YEAR of 5TH MYT CONTROL PERIOD 2024 to 2026, IN TERMS OF THE DELHI ELECTRICITY REGULATORY COMMISSION (TERMS AND CONDITIONS FOR DETERMINATION OF TARIFF) REGULATIONS, 2017, THE DELHI ELECTRICITY REGULATORY COMMISSION (BUSINESS PLAN) REGULATIONS, 2023, read with ELECTRICITY ACT, 2003 & THE DELHI ELECTRICITY REFORM ACT, 2000 and DERC (COMPREHENSIVE CONDUCT OF BUSINESS REGULATIONS), 2001 and directions issued by the Hon'ble Delhi Electricity Regulatory Commission from time to time.

THE PETITIONER RESPECTFULLY SHOWETH:

- 1. The Petitioner Tata Power Delhi Distribution Limited (formerly known as North Delhi Power Limited) was incorporated under the provisions of the Companies Act, 1956 with its corporate office at NDPL House, Hudson Lines, Kingsway Camp, Delhi - 110 009. During financial year 2011-12, the Company applied for change in its name from North Delhi Power Limited to Tata Power Delhi Distribution Limited. Subsequently, a fresh certificate of incorporation consequent to the change in name to Tata Power Delhi Distribution Limited ('the Company') was issued by the Registrar of Companies, N.C.T of Delhi & Haryana on 29 November, 2011 under section 23(1) of the Companies Act, 1956.**

'The Company' primarily engaged in the business of distribution of electricity in North and North-West Delhi was set up in terms of Delhi Electricity Reforms (Transfer Scheme) Rules 2001. The undertaking of the erstwhile Delhi Vidyut Board (DVB) engaged in distribution and retail supply of electricity in the North & North-West districts in the National Capital Territory of Delhi together with the personnel employed therein were transferred to the Company with effect from 1 July, 2002 which also marked the commencement of commercial operations for the Company.

The Company has been granted a License under section 20 of the Delhi Electricity Reform Act, 2000 (Act No. 2 of 2001) by the Delhi Electricity Regulatory Commission (DERC) on 11 March, 2004. The License is valid for a period of twenty five years.

- 2. TPDDL has been carrying out electricity distribution and retail supply in its Area of Supply as defined in schedule H, Part-III of the Delhi Electricity Reform (Transfer**

Scheme Rules), 2001 and the Distribution and retail supply license issued by the Hon'ble Commission since 01.07.2002. The Petitioner has also undertaken generation of electricity (solar and gas based) through its generation wing. However, due to curtailment of gas by Ministry of Petroleum and Gas, the gas-based generation plant is not operational.

3. The Hon'ble Commission is a **statutory body** and is empowered to regulate the electricity distribution business and determine tariff under section 62 of the Electricity Act 2003.
4. After completion of 2nd MYT Control Period, the Hon'ble Commission enacted the new MYT Regulations, 2017 vide its gazette notification dated 31.01.2017 specifying Terms and Conditions for Determination of Tariff after undertaking the public hearing and stakeholders' consultation, to be effective from 01.04.2017 onwards.
5. For sake of convenience and brevity, the said regulations have been referred as the 3rd MYT Regulations 2017 and subsequently the Hon'ble Commission has issued operational norms for Distribution Utilities vide Business Plan Regulations 2017, 2019 issued for different control periods. The current ARR is being furnished in accordance with operational norms specified in Business Plan Regulations 2023 which was notified on 06.04.2023 being effective from 01.04.2023.
6. In compliance with the aforesaid regulations/directives, and without prejudice to the Petitioner's rights, remedies available to it under various laws, and pending provisional true up of various claims, review orders, implementation of various judgments before the Hon'ble Commission and pending adjudication of various matters before higher judicial forums, Tata Power Delhi Distribution Ltd. (the Petitioner) is filing this petition seeking for the ARR for FY 2023-24 on the basis of the 3rd MYT Regulations, 2017, read with Business Plan Regulation, 2023 and principles laid down in various judgments given by Appellate Tribunal of Electricity, judicial authorities, past practice etc.
7. The Petitioner has filed its True up Petition for FY 2021-22 on 01.11.2022 seeking true up of revenue gap of Rs 5,021.29 Cr. upto FY 2021-22. In the said Petition, the Petitioner has prayed before the Hon'ble Commission seeking

- (i) **Allowance of Impact of Judgments pronounced by the Hon'ble APTEL in various Tariff appeals, other Appeals as per submissions of the Petitioner**
 - (ii) **Allowance of Impact of Judgments pronounced by the Hon'ble Commission in its various Petitions**
 - (iii) **Allowance of Impact of final True up of Capitalization for FY 2005-06 to FY 2016-17 and FY 2018-19 to FY 2021-22**
 - (iv) **Allowance of Impact of Rithala Tariff Order/True Up Order pronounced by the Hon'ble Commission for True up upto FY 2017-18**
 - (v) **True up of ARR for FY 2021-22**
 - (vi) **True up for Rithala Plant for FY 21-22**
 - (vii) **Recognition of Revenue Gap and a realistic and time bound amortization plan to liquidate trued up Revenue Gap upto FY 2021-22**
8. The 3rd MYT Tariff Regulations provides that the Licensee has to file True up Petition for previous year & ARR Petition for ensuing year before 31st October of the current year. However, it is undisputed fact that due to non-existence of operational norms for FY 2023-24, the ARR Petition could not be filed by the Petitioner, thus the non filing of ARR is not attributed to the Petitioner. With the Business Plan Regulations, 2023 being notified by Hon'ble Commission, the Petitioner is now filing its ARR Petition for FY 2023-24 and prays to the Hon'ble Commission to consider this ARR Petition for determination of tariff and undertake True up of FY2020-21 and FY2021-22.

9. The Hon'ble Commission enacted the Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations 2017 vide notification dated 31.01.2017. In terms of the said Tariff Regulations, 2017 the Hon'ble Commission introduced the concept of enacting Business Plan Regulations [refer Regulation 2(13)] for control period.

The Hon'ble Commission enacted the Business Plan Regulations for fifth control period (comprising of three years FY 2023-24; 2024-25; 2025-26) on 06.04.2023. The Hon'ble Commission laid down the business plan norms for the various generating, transmission, distribution utilities in Delhi.

The control period for the said DERC Business Plan Regulations 2019, was applicable up to FY 2022-23, the Hon'ble Commission commenced the exercise of finalizing the new Business Plan Regulations, 2023 for the fifth control period (FY 2023-24; 2024-25; 2025-26) through floating the draft Business Plan Regulations followed by stakeholder consultation. The Petitioner furnished its comments, views to the Hon'ble Commission on various parameters. However, the Hon'ble Commission while notifying the final Business Plan Regulations, 2023 has ignored the concerns, submissions and suggestions of the Petitioner on some provisions of Business Plan Regulations, 2023.

It is our submission that the Hon'ble Commission vide the said DERC Business Plan Regulations 2023 (hereinafter referred as BPR 2023) specifically on major provisions like Return on Equity, determination of O&M expenses, Legal Expenses, Power Banking etc. enacted Regulations which are not in accordance with the provisions of the Electricity Act, 2003, based on unwarranted benchmarking, models and violates the mandate of the provisions of National Tariff Policy. The said BPR 2023 Regulation further ignores certain factors, business realities, practical aspects which have direct bearing on certain ARR component which are not in control of the Petitioner. In view of the Petitioner, the DERC Business Plan Regulations 2023, needs re-consideration by Hon'ble commission either through Hon'ble Commission's own actions or judicial review.

The Petitioner has submitted a representation to the Hon'ble Commission vide its letter No. TPDDL Regulatory 2023-24/03/48 (Annexure I) for its consideration on certain issues, difficulties raised therein which may be taken cognizance of. The Petitioner without prejudice to its rights, contentions is filing the ARR for FY 2023-24 with the Hon'ble Commission. The said ARR petition for FY 2023-24 will be subject to the outcome of any proceedings initiated by the Petitioner, challenging the DERC Business Plan Regulations 2023 before the Competent Court, the Hon'ble Delhi High Court, based on legal advice [current challenge to the BPR 2023 has been preferred vide Writ Petition No.6724/2023 Tata Power Delhi Distribution Ltd. Vs DERC]. The Petitioner shall seek consequential orders, revision from the Hon'ble Commission based on the observations, findings, judgment of the Competent Court, the Hon'ble Delhi High Court, as the case may be pursuant to outcome of such Legal proceedings pending or to be filed against the DERC Business Plan Regulations 2023.

The Petitioner thus seeks, reserves its right to raise its claims in relation to the interpretation/mandate of Business Plan Regulations 2023, once the same is decided by the Hon'ble Delhi High Court, competent court.

However, it is being specifically clarified by the Petitioner that by filing the ARR petition for FY 2023-24, such methodology should not be construed as any waiver or concession, omission at the end of the Petitioner in later claiming any consequential orders, based on outcome of the Writ Petition or other Petitions to be instituted by the Petitioner against such DERC Business Plan Regulations 2023, or other Regulations. It is the submission of the Petitioner that present Petition is being made in line with present DERC Business Regulations 2023 and subject to outcome of the proceedings, Writ matters (Writ Petition No.6724/2023 Tata Power Delhi Distribution Ltd. Vs DERC) filed or to be filed which have a direct bearing on the DERC Business Plan Regulations, 2023, other Tariff Regulations in Force and ARR determination as well as on the principles enunciated for Wheeling, Retail Supply Tariff as may be decided by any Court, Tribunal or otherwise.

10. The current Petition includes affidavit verifying the Petition and the Power of Attorney for filing the same.
 - a. Computation of ARR for FY 23-24
11. It is submitted that apart from the issues already mentioned in the True up petition for FY 2021-22, the present petition is being filed for consideration of the Hon'ble Commission on following issues:

1) Amortization of Accumulated Revenue Gap

It is submitted that there was negligible Revenue Gap up to 31.03.2009 amounting to Rs. 161.43 Cr but due to delay in release of tariff order or non-determination of cost reflective tariff, there has been a huge amount of built up of Revenue Gap up to FY 2019-20 amounting to Rs. 1,762.81 Cr. as provisionally trued up by the Hon'ble Commission in its Tariff Order dated September 2021. However, the Petitioner in its

True up Petition for FY 2021-22 has sought Revenue Gap (i.e. Rs. 5,021.29 Cr) upto FY 2021-22, however it does not include impact of true up of pending capitalization and Rithala balance unrecovered capital cost.

It is worth to mention that the Petitioner has estimated an amount of Rs. 530.98 Cr as revenue gap for FY 2022-23. This revenue deficit for the year would further increase the true up provisional revenue gap of the Petitioner. Thus, creation/addition in regulatory assets is a matter of grave concern for the Petitioner, its bankers, lenders and consumers also on which specific consideration of the Hon'ble Commission is required in line with the guidelines issued in **National Tariff Policy issued vide Gazette Notification dated 28th January, 2016. The relevant extracts of the relevant clause 8.2.2 has been reproduced below:**

"8.2.2 The facility of a regulatory asset has been adopted by some Regulatory Commissions in the past to limit tariff impact in a particular year. This should be done only as a very rare exception in case of natural calamity or force majeure conditions and subject to the following:

- a. Under business as usual conditions, no creation of Regulatory Assets shall be allowed;*
- b. Recovery of outstanding Regulatory Assets along with carrying cost of Regulatory Assets should be time bound and within a period not exceeding seven years. The State Commission may specify the trajectory for the same."*

It may be appreciated that a major part of the regulatory asset has been hovering on the Petitioner for more than 10 years and recovery of the high accumulated gap continues to remain a concern for the financial health of the Petitioner, given that there is no clear roadmap stipulated for recovery of the same.

The Hon'ble Commission in its counter Affidavit filed in Writ Petition No.1005/2021 pertaining to Regulatory asset recognition, liquidation filed by the Petitioner in the Hon'ble Supreme Court of India has admitted the built up of regulatory assets for various reasons. The Hon'ble Commission has vide table at para 60 and 61 claimed to undertake the liquidation of Regulatory asset of the Petitioner by FY 2023-24. Table below for reference:

Year (True up of)	Regulatory Asset (Principal) Rs Cr	Carrying cost (Rs Cr)	Recovery Through DRRS (Rs Cr)	Closing Balance (Rs Cr)
FY 20-21	(1763)	(180)	589	(1355)
FY 21-22	(1355)	(138)	647	(845)
FY 22-23	(845)	(86)	712	(220)
FY 23-24	(220)	(22)	783	541 Surplus

It is submitted that the said claim of the Hon'ble Commission is factually incorrect. The Hon'ble Commission has not considered the implementation of favorable orders already pronounced by the Hon'ble APTEL/Hon'ble Commission which should have been considered in the proposed liquidation plan.

- i) Rithala order for True up till FY 17-18 (Order date 11.11.2019)
- ii) AT&C incentive and service tax for FY 12-13 to FY 16-17 (Order date 21.07.2022)
- iii) Review order 57 of 2021 (Order date 09.11.2022)

Further, the Hon'ble Commission has not considered the impact of revenue gap created during FY 20-21 & FY 21-22 which is already submitted before the Hon'ble Commission in the true up petition.

Therefore, the liquidation plan being submitted by the Hon'ble Commission is not complete and needs to be revised considering the impact of above orders and pending true ups. Thus, main issue regarding timely recognition of the Regulatory Assets as per accounts/financials of the Petitioner remains unaddressed.

In case, there is a delay in amortization of such huge built up of Revenue Gap then it may also deteriorate the credit rating of the company, ultimately resulting into higher cost of debt and additional burden of the carrying cost to the consumers. Therefore, it is requested to the Hon'ble Commission to come up with a more dynamic Plan for liquidation of Regulatory Assets.

2) Cost Reflective Tariff to ensure liquidation of Revenue Gap

Without prejudice to the rights, objections, contentions of the Petitioner, it is submitted that due to pending provisional true up of /various claims including capitalization, implementation of various judgments before the Hon'ble Commission, pending

adjudication of various matters before higher judicial forums and considering the estimated Aggregate Revenue Requirement for FY 2023-24, the Petitioner has estimated provisional Revenue Gap of Rs 7,740.90 Cr at the end of FY 2023-24. Further, the Petitioner's claim of revenue gap in this petition is only provisional and shall be subject to revision, change as and when the Hon'ble Commission undertakes final truing up or in the event any judgment/order is passed in any sub judice matters and its impact is to be given effect etc. Thus, Petitioner reserves its right to accordingly modify and claim the revenue gap duly considering the legal or regulatory developments as the case may be.

As, the Petitioner has projected revenue deficit/gap of Rs. 7,740.90 Cr. up to FY 2023-24 which will further go up on finalization of past year pending issues like Capitalization and Issues pending for adjudication before judicial authorities. Therefore, to meet this opening revenue deficit, a suitable tariff hike may be approved so that there will be no more addition in the Revenue Gap. It is further requested that the Hon'ble Commission may increase the Deficit recovery surcharge for early liquidation of the accumulated Revenue Gap as proposed in the present Petition.

The Petitioner is filing the present Petition to ensure determination of cost reflective tariff. Though the Petitioner has made all efforts and has tried diligently to ensure a comprehensive Petition, it may be possible that some aspects/components/claims have not been dealt in detail and/or may have been inadvertently omitted. Such lack of detail/ omission, if any, is only inadvertent and ought not to be treated as a waiver of any entitlement. The Petitioner craves leave of this Hon'ble Commission and reserves its rights to supplement the present Petition with additional facts, additional affidavits, additional submissions and claims, if any. Nothing presented in the Petition should be treated as restricting, estopping, waiving or limiting the rights of the Petitioner to claims and entitlements which it is permitted to recover under law.

The filing of the Petition shall not be treated as curtailment of any right or claim of the Petitioner, which it is permitted to recover in terms of its License and Orders of the Hon'ble Commission, the Hon'ble APTEL (including the principle of parity / equality in treatment of DISCOMs but excluding the matters where the Hon'ble Tribunal has

exclusively granted relief to the Petitioner only) and or any other proceedings relevant to the entitlement of the Petitioner.

The filing of the present Petition is without prejudice to the rights, objections, contentions of the Petitioner with regard to Delhi Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2017, The DERC (Business Plan Regulations) 2023. The filing, submission of the Petition shall not be treated as curtailment of any right or claim of the Petitioner, to challenge/ initiate appropriate legal action against any final order resulting from this Petition which has been filed on the basis of the 2nd MYT Regulations, 3rd MYT Regulations read with the DERC Business Plan regulation 2017 & 2019 as well as any orders/judgments of the Hon'ble Appellate Tribunal of Electricity, the Hon'ble High Court of Delhi, the Hon'ble Supreme Court of India as well as any other forum.

Prayer

In view of the above, the Petitioner respectfully prays that the Hon'ble Commission may be pleased to:

- a) **Admit the Petition:** TPDDL requests the Hon'ble Commission to kindly admit the petition for ARR for FY 2023-24. Any clarifications, additional information, details sought by the Hon'ble Commission shall be provided as and when directed by the Hon'ble Commission; and/or
- b) Allow claims as per True up Petition for FY 2020-21 filed with the Hon'ble Commission on 30.11.2021 and admitted vide order dated 17.03.2022 in Tariff Petition No. 02/2022 pending disposal.
- c) Allow claims as per True up Petition for FY 2021-22 filed with the Hon'ble Commission on 01.11.2022 and admitted vide order dated 19.01.2023 in Tariff Petition No. 62/2022 pending disposal.
- d) **Determine and Approve the ARR for FY 2023-24**

- e) **To determine and allow impact of Final True up of Pending Capitalization for the periods FY 2005-06 to FY 2015-16 and FY 2018-19 to FY 2021-22**
- f) **Specify the expedited recovery trajectory/ amortization plan** of the Revenue Gap provisionally determined up to FY 2019-20 along with carrying costs to facilitate, enable the Petitioner to avail refinancing of existing loans and repayment etc. from its lenders to make business sustainable; and/or.
- g) In the event of any issues raised by the Petitioner in Appeal or Petitions referred above get adjudicated prior to issuance of the Tariff Order, by the Hon'ble APTEL/ Hon'ble High Court/ Hon'ble Supreme Court and the Hon'ble Commission, the impact of the same may be taken into consideration along with carrying cost while effecting Truing Up exercise; and/or
- h) Allow the Petitioner to continue recovery through existing Deficit Revenue Surcharge or give suitable increase in Deficit Revenue Surcharge as deemed fit by the Hon'ble Commission; and/or
- i) Exercise its inherent powers or powers of relaxation if any sought by the Petitioner or in cases where so deemed fit Suo-moto by the Hon'ble Commission in the interest of determination of cost reflective Tariff; and/or
- j) To give due consideration to the issues enumerated above which have been represented through various letters, communications from time to time; and/or
- k) Any other order(s) it may deem fit.


Tata Power Delhi Distribution Limited

Petitioner

New Delhi