Impact for Prior Period Issues decided in favour of the Petitioner by the Hon'ble APTEL/the Hon'ble Commission not considered by the Hon'ble Commission:

There were certain issues which are squarely covered vide the Hon'ble APTEL judgments for past years, the Hon'ble Commission's own orders as well have not been implemented by the Hon'ble Commission while passing the tariff order on various pretexts, reasons. As the Tariff Petition for True-Up of FY 2020-21 and ARR for FY 2022-23 was filed on 30th Nov' 2021 and True-up of FY 2021-22 filled on 01st Nov' 2022 and ARR for FY 2023-24 filed on 22nd May' 2023 are yet to be trued up and disposed of by the Hon'ble Commission, the status of the following issues remains unimplemented. Accordingly, the Petitioner seeks to re-claim these unimplemented pending issues in the present petition as enumerated in below table:

S. No	Prior Period Issue	Impact (Principal) (Rs. Cr)	Appeal Reference
I	Rithala Impact	394.86	Rithala Petition 51 of 2017
	Rithala Refinance incentive	0.62	Rithala Petition 51 of 2017
II	Re-determination of AT&C Losses	171.15	Appeal No. 246 of 2020
III	Non-consideration of impact of increase in rate of Service Tax & Impact of service tax under Reverse Charge Mechanism	30.65	Appeal No. 213 of 2018
	Disallowance of Other Expenses	1.83	Appeal No. 213 of 2018
IV	Impact of Review Petition 57 of 2021	37.16	Review petition of 57 of 2021
V	Normative cost Power Banking FY 2018-19	89.35	IA Appeal No. 334 of 2021
VI	O&M Expenses for 2nd MYT period	284.82	IA No. 1147 & 1144 of 2022 and IA No. 1153 & 1152 of 2022
VII	Merit Order Dispatch Disallowance	24.50	Petition No. 10 of 2014 & Appeal No. 213 of 2018
VIII	Street Light Material Petition No. 10 of 2014	1.97	Petition No. 4 of 2014
IX	Reversal of Efficiency Factor FY 2015-16	19.69	Review Petition 30 of 2018 (BRPL)

X	Wrong reversal of material cost incurred towards maintenance of streetlight for the Years FY 2010-2011 and FY 2011-12	7.48	Appeal No. 301 of 2015

As stated above, the Petitioner is re-submitting its prior period claims as follows:

I. Impact of Rithala Tariff Order dated 11th Nov' 2019 issued by the Hon'ble Commission

The Hon'ble Commission has issued true up tariff order for Rithala on dated 11th Nov' 2019. In the said Tariff Order, the Hon'ble Commission has approved recovery of fixed charges & variable charges from FY 2010-11 to FY 2017-18 as given below:

Summary of the Y-O-Y approved Fixed Charges & Variable Charges

Particulars	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
Fixed Charges*	5.03	46.08	57.29	56.84	49.54	50.47	50.17	45.05
Fuel Cost^	14.52	89.77	51.97	0.08				
Total	**19.55**	**135.85**	**109.26**	**56.92**	**49.54**	**50.47**	**50.17**	**45.05**

**Refer para no 4.10 on Page no 6 of 22 for FY 10-11 & FY 11-12 & Refer para no 5.5.4 on Page no 13 of 22 from FY 12-13 onwards*

^ Refer para no 5.5.4 on Page no 13 of 22

Against the above approved amount, the Hon'ble Commission has provisionally allowed an amount of Rs 121 Cr in tariff Order July 2012 para 3.92, July 2013 para 3.75 and July 2014 para 3.81. Break-up of the same is given in table below:

Particulars	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
Total	**10.82**	**70.63**	**40.50**	**-**	**-**	**-**	**-**	**-**

Based on above tables, it is requested to the Hon'ble Commission to allow the year on year differential amount as computed in table below.

Particulars	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18
Total as per Table	19.55	135.85	109.26	56.92	49.54	50.47	50.17	45.05
Provisionally approved as per table	10.82	70.63	40.50	-	-	-	-	-
Differential amount*	**8.73**	**65.22**	**68.76**	**56.92**	**49.54**	**50.47**	**50.17**	**45.05**

**Before carrying cost impact*

It is submitted that the Petitioner is seeking implementation of trued up tariff order for Rithala dated 11th Nov' 2019 issued by the Hon'ble Commission itself. In the tariff order dated 28th August' 2020, the Hon'ble Commission has not implemented its own order to allow tariff up to 31st March' 2018 on the ground that an appeal in this respect is already pending before the Hon'ble APTEL. In this respect it is clarified that:

(a) There is no stay on the implementation of Order of the Hon'ble Commission by the Hon'ble APTEL.

(b) The Hon'ble Commission has without any justification linked allowance of Rithala tariff with the appeal pending before the Hon'ble APTEL. The appeal in the APTEL is not on the issue of allowance of tariff till 31st March 2018 but the appeal in APTEL is of allowance of Rithala capital cost and associated RoCE, Depreciation, O&M etc for entire life of 15 years i.e. for balance unrecovered capital cost of the plant. Therefore, the Hon'ble Commission should not link the issue of allowance of Rithala tariff up to 31st March 2018 which has already been allowed by the Hon'ble Commission with the issue of allowance of Rithala tariff beyond 31st March 2018.

While the Petitioner was seeking implementation of Rithala True up order, the Hon'ble Commission raised certain queries via email/meetings/letters dated 05th Jul' 2022, 06th Jul' 2022, 07th Jul' 2022, 08th Jul' 2022, 20th Jul' 2022, 01st Aug' 2022 and 13th Sep' 2022 pertaining to various issues like land use of Rithala plant, other income, carrying cost and financial statement and the Petitioner furnished queries wise response via letter dated 08th Jul' 2022, 21st Jul' 2022, 08th Aug' 2022 and 16th Sep' 2022 which are on record of the Hon'ble Commission

Further as per order dated 11th Nov' 2019 the Petitioner is entitled to recover the cost of the Rithala Plant in 15 years along with the normal true up of ARR for the respective year. It is clarified that Petitioner without prejudice to the outcome of its Appeal 33 of 2020 pending against Order dated 11th Nov' 2019 before the Hon'ble APTEL, is seeking mechanism for recovery of balance unrecovered capital cost of plant i.e. Rs. 94.31 Cr.

II. Re-determination of AT&C Losses & O&M Expenses for 2nd Control Period

The Hon'ble Commission was bound in terms of its Compliance order dated 04th Feb' 2021 rendered in Appeal 213 of 2018 proceedings before the Hon'ble APTEL to give effect to revision of AT&C loss trajectory for the years FY 2012-13 to FY 2016-17. While the Petitioner was awaiting the implementation of the said revision in the tariff order for FY 2021-22 and True up for FY 2019-20, the Hon'ble Commission in violation of its own compliance order, undertaking furnished to the Hon'ble APTEL (in Appeal 213 of 2018 proceedings) unilaterally, arbitrarily reduced the AT&C incentives and also revised the O&M expenses of the Petitioner for the years FY 2012-13 to FY 2016-2017 on flawed approach, reasoning. The Hon'ble Commission passed an order dated 29.09.2021 modifying its earlier compliance order dated 04th Feb' 2021 on the said compliance of issues. The relevant extracts of the Hon'ble Commission from tariff order dated 30th Sep' 2021 for FY 2021-22 are –

"3.17 Hon'ble APTEL issued its Judgement in EP 5 of 2021 on 26.07.2021 directing the Commission to consider the issues favoring the Petitioner in its judgment in Appeal 246 of 2014 by way of Execution Petition 5 of 2021 since the issues held in favour of the Petitioner have not been modified or stayed by the Hon'ble Supreme Court in spite of Civil Appeal being filed by the Commission.

3.18 The Commission modified its Compliance order dated 4/02/2021 by way of an Order dated 29.09.2021 and revised the reduction in AT&C Loss trajectory by 0.87% instead of 0.50% with reasons detailed in the said Order.

3.19 Accordingly, the Commission has revised the AT&C Loss trajectory as follows:"

FY 2011-12	*FY 2012-13*	*FY 2013-14*	*FY 2014-15*	*FY 2015-16*	*FY 2016-17*
15.325%	*14.46%*	*13.60%*	*12.73%*	*11.87%*	*11.00%*

Following is the summary of AT&C amount claimed by the Petitioner and allowed by Hon'ble Commission (Rs. Cr)

Particulars	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Amount Sought by the Petitioner in true-up FY 19-20	50.62	31.83	33.18	35.68	36.81
Amount Allowed by Commission in Sep'21 Tariff Order	24.67	4.30	3.64	-2.88	-12.76

Differential amount sought now before carrying cost impact	25.95	27.53	29.54	38.56	49.57

Therefore, it is requested to the Hon'ble Commission to allow balance amount of Rs. 171.15 Cr along with carrying cost on account of AT&C re-determination.

The Hon'ble Commission is humbly submitted and bound to consider and implement the said issues in the upcoming tariff order.

III. Disallowance of Other Expenses (LC Charges, Cost of Auditor Certificate, Credit Ratings and Increase in rate of Service Tax)

While truing up for FY 2012-13 in the Tariff Order dated 23rd Jul' 2014, the Hon'ble Commission has not considered legitimate claims as per table below of the Petitioner. This unfair disallowance was challenged before the Hon'ble APTEL in Appeal 246 of 2014. It is worth to mention that these expenses are uncontrollable in the hands of Petitioner and are done in the interest of the consumers. The same did not form part of and were not considered while preparing the estimates of the normative expenses. Hence, the Petitioner had sought for impact of these expenses over and above the normative expenses.

Considering the submission made by the Petitioner before the Hon'ble APTEL, the Hon'ble APTEL agreed with the Petitioner's contentions and decided the said issues in favour of the Petitioner. By Judgment dated 30th Sep' 2019 in Appeal No. 246 of 2014 titled "*TPDDL vs. DERC*". Relevant extracts of the Judgment are given below:

" *16.3.1 Learned counsel for the Appellant submitted that the Respondent Commission had disallowed various uncontrollable expenses while truing up for FY 2012-13 despite the fact that these expenses were related to change in law and change in charges levied by the bank / financial institutions.* ***These uncontrollable expenses broadly include change in service tax rate, service tax under reverse charge mechanism, financing charges, increase in LC charges, cost of auditor certificate, credit rating fees, etc***.

....

16.4.1 We have carefully gone through the rival submissions of learned counsel for the Appellant and learned counsel for the Respondent Commission and also taken note of the findings of this Tribunal in its judgment dated 10.02.2015 in Appeal No. 171 of 2012. It is not *in dispute that the Appellant has actually incurred various expenses as claimed by it in the petition which the State Commission has disallowed while truing up for FY 2012-13 giving reasoning that these expenses are controllable. It is, however, seen that many of the expenses so claimed by the Appellant are in the category of uncontrollable in nature and need to be looked into by the Commission by adopting a judicious approach instead of disallowing all of them in totality. This Tribunal in its judgment dated 10.2.2015 in Appeal no. 171 of 2012 has held that enhancement in expenses due to reasons beyond the control of the utility, such as statutory obligations are uncontrollable in nature and, therefore, ought to be allowed.*

...

16.4.3 It is relevant to note that change in law relating to statutory levies cannot be envisaged by the Licensee or the Respondent Commission at the time of the MYT Order and, thus, cannot be considered as part of the normative increase in expenses by the Respondent Commission. It is also noticed that apart from expenses incurred due to change in law, there are certain other expenses which have been incurred for the reasons not attributable to the Appellant but in the interest of consumers (such as credit rating fee) and if such expenses were not incurred by the Appellant, it would have burdened the consumers with higher interest, consequential higher tariff, carrying cost etc. As the judgment of this Tribunal dated 10.02.2015 has been challenged by the Respondent Commission before the Hon'ble Apex Court and no stay has been granted against the operation of the said judgment, we are of the considered view that pending decision of the Hon'ble Apex Court the various claims of the Appellant regarding statutory fee/charges should be looked into by the Respondent Commission afresh duly considering some of them as controllable and others as uncontrollable in the interest of justice and equity. Accordingly, we decide this issue in favour of the Appellant."

The abovementioned issues were also challenged by the Petitioner in Appeal No. 213 of 2018 filed against the Tariff Order dated 28th Mar' 2018 (Issue Nos. 1 and 9 in that Appeal) in respect of FY 2016-17 (i.e., the Financial year for which True Up is under challenge) whereby by Order dated 11.03.2020, the Hon'ble APTEL had directed this Hon'ble Commission to allow the impact of the aforesaid issues in the Tariff Proceedings for the current year. The same was not done and therefore, the Hon'ble APTEL again by Order dated 26th Nov' 2020 had directed this Hon'ble Commission to comply with the directions of the Hon'ble APTEL.

Thus, in line with the Hon'ble APTEL Judgment dated 30th Sep' 2019 in Appeal No. 246 of 2014 and Order dated 11th Mar' 2020 and 26th Nov' 2020 passed in Appeal No. 213 of 2018, the

Petitioner seeks the following claims for entire 2nd MYT Control period along with carrying costs.

Additional O&M Expenses

Particulars	FY 13	FY 14	FY 15	FY 16	*FY 17
Change in Service Tax Rate	1.96	2.67	3.03	5.45	7.18
Service Tax under Reverse charge mechanism	0.31	1.50	0.67	3.44	4.44
Cost of Auditor Certificate	0.07	0.09			
Increase in LC charges	0.73	0.59			
Credit rating fees	0.13	0.22			
Total – Rs Cr.	**3.20**	**5.07**	**3.70**	**8.89**	**11.62**

**issues decided in favour of the Petitioner (refer Issue no 1 & 9 of Appeal no 213 of 2018)*

The Relevant Extracts of the Tariff Orders passed for each Financial Year are extracted herein below where the Hon'ble Commission has not allowed the aforesaid expenses.

For FY 2012-13 (Extract of the Tariff Order for FY 2014-15)

Table 3.56: Other expenses approved in the Truing up for FY 2012-13 (Rs. Crore)

Sl. No.	Particulars	Petitioner's Submission	Now approved	Remarks
1	License Fees on Energy Billed	0.21	0.21	Para 3.204 a
2	Change in Service Tax Rate	1.96	--	
3	Service Tax under Reverse charge mechanism	0.31	--	
4	Registration fees for execution of mortgage deeds for borrowings	1.65	--	
5	Cost of Auditor Certificate	0.07	--	
6	Loss on redemption of Contingency Reserve Investments – GOI Securities	0.20	0.20	Para 3.204 d
7	Financing charges	0.40	--	
8	Increase in LC charges	0.73	--	
9	Credit rating fees	0.13	--	
10	**Total**	**5.66**	**0.41**	

For FY 2013-14 (Extract of the Tariff Order for FY 2015-16)

Table 3.96: Other expenses approved in the Truing up for FY 2013-14 (Rs. Crore)

Sl. No.	Particulars	Petitioner's Submission	Now approved
1	License Fees	0.82	0.82
2	Change in Service Tax Rate	2.67	-
3	Service Tax under Reverse charge mechanism	1.50	
4	Registration charges as per GoI notification	0.58	-
6	Increase in LC charges	0.59	-
7	Cost of Auditor Certificate	0.09	-
8	Credit rating fees	0.22	-
9	Other finance charges	1.04	-
10	Financing cost of Power Banking	5.49	-
11	**Total**	**13.01**	**0.82**

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For FY 2014-15 & FY 2015-16 (Extract of the Tariff Order for FY 2017-18)

Table 174: Other Expenses Truing up for FY 2014-15 and FY 2015-16 (Rs. Crore)

Particulars	Petitioner's Submission		Commission's Approved	
	FY 2014-15	FY 2015-16	FY 2014-15	FY 2015-16
Incremental Licence Fees paid to DERC	1.00	1.29	1.00	1.29
Land License Fees paid towards grid	2.24	1.70	2.24	1.70
CSR Expenses	8.11	8.55		
Amendment in Service Tax	3.03	5.45		
Reverse Charge Mechanism	0.67	3.44		
Registration fees for registration act	0.32	-	0.32	
Cost Auditor Certificate Expense	0.03	-	0.03	

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For FY 2016-17 (Extract of the Tariff Order for FY 2018-19)

Table 41: Commission Approved - Summary of New initiative/Additional Expenses FY 2016-17 (Rs Cr)

Sl. No.	Nature	Petitioner's Submission	Approved
Statutory Levys, Taxes etc.			
A	License Fee	1.19	1.19
B	Change in Service Tax	7.18	0.00
C	Reverse Charge Mechanism	4.44	0.00
D	Land Licensee Fees	4.42	4.42
E	CSR Expenses	8.12	0.00
Additional Expenses/ Other Expenses – in line with APTEL Judgment			
G	Other Financing charges	0.21	0.00
H	SMS Charges	0.35	0.35
I	Property Tax	0.68	0.68
J	Water Charges	1.6	0.00
Demand Side Management			
K	DSM Fund	6.16	6.16
	Total	34.35	12.80

It is requested to the Hon'ble Commission to allow the impact of the aforesaid issues along with carrying cost as held by Hon'ble APTEL in Appeal No. 246 of 2014.

Further with respect to the judgment dated 29th Jul' 2016 passed by the Hon'ble High Court of Delhi in W.P. (C) No. 2203 of 2012 in the matter of TPDDL vs. DERC, relevant extract reproduced below:

"20. Paragraph 5.3(h)(4) of NTP, 2006 specifically requires the uncontrollable cost to be recovered and not accumulated so as to burden future consumers. A plain reading of the impugned Regulations also indicate that they do not permit carry forward of O&M expenses or recovery of the same in the future years; all O&M expenses which may remain unrecovered are to the account of the licensee. Although O&M cost are deemed to be controllable, nonetheless, the impugned Regulations do provide for a normative increase in such costs based on a specified formula. Clearly, the intention of the Commission is to ensure that such costs are passed through but instead of bisecting the expenses head into various cost elements and providing for truing up of the actual variation in each year, the Commission in its wisdom has framed a formula for absorbing the increased costs in the tariff on a normative basis. This is clearly to insulate the consumers from wide variation and provide for an overall uniform increase based on an inflation factor. ***Indisputably, the O&M expenses include both elements which are controllable as well as uncontrollable, thus admittedly, it would also not be apposite to treat all O&M expenses as uncontrollable. The Commission has adopted a broad approach and whilst all O&M expenses are treated as controllable under the impugned Regulations, it also provides for an increase in such expenses based on inflation factor. This is merely an alternate method for the pass through of increase in expenses and absorbing the effect of inflation in the tariff." (Emphasis supplied)***

It is clearly evident that the Hon'ble High Court has also upheld that O&M expenses including both controllable and uncontrollable expenses. Though there is a mechanism to take care of increase in these expenses, but at times the inflation/escalation factor allowed is not sufficient to meet the increase in uncontrollable factors. The amount sought by the Petitioner is mainly on account of sharp increase in statutory levies which is uncontrollable in hands of the Petitioner and inflation/escalation factor is not sufficient to meet such sharp increase.

Thus once again, it is requested to the Hon'ble Commission to allow the impact of the aforesaid issues along with carrying cost.

IV. Impact of Review Petition No. 57 of 2021

The Hon'ble Commission in its Order dated 9th Nov 2022 in Petition No. 57 of 2021 has agreed to allow impact of following issues:

1. Interest on Consumer Security Deposit for FY 2018-19 – Rs 9.58 Cr
2. Arrears of Maithon Power Ltd. – Rs 25 Cr
3. Negative Power purchase cost of Own Solar & Rithala Power Plant for FY 2019-20 – Rs 2.08 Cr
4. Deferment of Capitalization of FY 2017-18 to FY 2018-19 due to EI not added – Rs 0.50 Cr for FY 2018-19, though it will further have consequential impact

Relevant extract of the Review Order dated 9th Nov' 2022 is reproduce below:

"Issue No. 1: Interest on Consumer Security Deposit for FY 2018-19

Commission's Analysis

10.1.7 In view of the above the issue regarding Interest on Consumer Security Deposit for FY 2018-19 has been analyzed and the Arithmetical Error will be accordingly rectified in the ensuing Tariff Order along with Carrying Cost

Issue No. 2: Arrears of Maithon Power Ltd.

Commission's Analysis

10.2.7 There is no error apparent on this issue. However, based on the CERC Order dated 08.01.2022 the amount of Rs. 25 Crore withheld in Tariff Order dated 28/08/2020 and 30/09/2021 will be considered in the ensuing Tariff Order along with Carrying Cost.

Issue No. 3: Negative Power Purchase Cost of Own Solar and Rithala Power Plant.

Commission's Analysis

10.3.7 Further, with regards to Own Solar, the Commission will review the fresh claim of Rs. 2.08 Cr. for FY 2019-20 in the ensuing tariff order.

Issue No. 4: Deferment of Capitalization of FY 2017-18 to FY 2018-19 due to EI not added.

Commission's Analysis

10.4.3 The Commission has considered Rs. 33.76 Crore on account of Electrical Inspector Certificate (EIC) being obtained in FY 2018-19 instead of Rs. 39.85 Crore as trued up. The *difference of Rs. 6.09 Crore as claimed by the Petitioner will be considered appropriately in the ensuing Tariff Order."*

Based on the above order, it is requested to the Hon'ble Commission to allow the impact of Rs 37.16 Cr along with carrying cost in the upcoming tariff order. Details given in below table:

S. No.	Particulars/Issues	Amount (Rs Cr)
A	Interest on Consumer Security Deposit for FY 2018-19	9.58
B	Arrears of Maithon Power Ltd.	25.00
C	Negative Power purchase cost of Own Solar & Rithala Power Plant	2.08
D	Deferment of Capitalization of FY 2017-18 to FY 2018-19 due to EI not added	0.50
E	**Total**	**37.16**

V. Normative Cost of Power Banking for FY 2018-19

The Hon'ble Commission in its 30th Sep' 2021 Tariff order has revised the normative cost of Power Banking for FY 2018-19 relying upon its letter dated 16th Nov', 2018 which provided that Normative Cost of Banking Transactions shall be weighted average rate of all long-term sources considering only Variable Cost for the relevant year.

Further, it is pertinent to state that the Banking Transactions are revenue neutral in nature i.e., the variable cost considered for Forward Banking & Reverse Banking leads to no impact in Power Purchase Cost since the Forward Banking & Reverse Banking transactions spill over to multiple years after considering the impact of Banking Return Ratio.

The aforesaid principle was also acknowledged by the Hon'ble Tribunal in its Judgment dated 28th Nov' 2013 passed in Appeal No. 14 of 2012. The observation of the Hon'ble Tribunal with regard to Banking Transaction is reproduced hereinbelow:

> *"115. Since the issue before us revolves around banking of power, it would be worthwhile to understand the concept of banking of power. Power banking is like any other banking. In case of power banking, surplus power is banked by a utility with other utility to be returned later with some additional power (interest). There two types of banking:*

(a) *Forward Power Banking- distribution licensee banks excess power with other utilities, and draws banked power later when required.*

(b) *Reverse power banking- excess power banked by another utility is with the distribution licensee and the same is returned at a later date.*

116. Forward banking for one utility is reverse banking for the other utility. There would be no issue, if the power is banked and returned within the same financial year. However, issue of financial charges arises in case power is banked during a year and returned during next financial year. When power is banked during a financial year it is shown as notional sale of the distribution licensee at a predetermined rate and the amount so arrived is deducted from the ARR of the licensee. When the power returned, it is shown as notional purchase at the same rate and the cost is added to its ARR. The licensee has paid the power purchase cost and did not get any revenue from such notional sale. The concept of power banking and the issue is explained by following illustration.

FY 2007-08

Total ARR of the licensee = Rs 1000 Cr

Units banked during the year = 100 MU

Notional sale for banked energy @ Rs 4/unit = Rs 40 Cr

Net ARR of the licensee recovered through tariff = Rs 960 Cr

FY 2008-09

Total ARR of the licensee = Rs 1000 Cr

Units returned during the year = 100 MU

Notional purchase for banked energy @ Rs 4/unit = Rs 40 Cr

Net ARR of the licensee recovered through tariff = Rs 1040 Cr

117. Thus, the licensee loses carrying cost for Rs 40 Cr. However, in order to make banking arrangements tariff neutral some element of interest is also added. Accordingly, the utility which had banked energy would get 4% additional energy at the time of return to offset the carrying cost for the banked energy. Let us add the interest component in the above example:

FY 2007-08

Total ARR of the licensee = Rs 1000 Cr

Units banked during the year = 100 MU

Notional sale for banked energy @ Rs 4/unit = Rs 40 Cr

Net ARR of the licensee recovered through tariff = Rs 960 Cr

FY 2008-09

Total ARR of the licensee = Rs 1000 Cr

Units returned during the year = 104 MU

Notional purchase for 104 MU @ Rs 4/unit = Rs 41.6 Cr

Net ARR of the licensee recovered through tariff = Rs 1041.6 Cr.

118. Thus the Licensee gets Rs 1.6 Cr extra as Notional cost of additional energy received to offset the carrying costs. Accordingly, the issue is decided against the Appellant."

The Hon'ble Commission while settling the banking transaction in September 2021 Tariff order revisited/revised the banking transactions for FY 2018-19 and undertook an approach which was completely opposite and in contravention to the principle laid down by the Hon'ble Tribunal in Appeal No. 14 of 2012 resulting in disallowance of Rs 89.35 Cr to the Petitioner.

Further, this issue is pending adjudication in Appeal 334 of 2021 for which IA 1766 of 2022 was filed before the Hon'ble APTEL. Vide the order dated on 23rd Mar' 2023, judgement in IA

1766 of 2022. The Hon'ble APTEL as in interim measure, suspended the letter dated 16th Nov' 2018 till the pendency of the said appeal.

Relevant extract from the judgement is reproduced below for reference:

"118. Viewed from any angle, we are satisfied that application of the formula prescribed in the DERC letter dated 16.11.2018 falls foul of the prescription in Regulation 121(3) of the 2017 Regulations. As there are other distribution licensees falling within the jurisdiction of the DERC, and it is only the appellant which has questioned the validity of the letter dated 16.11.2018, ***there shall be interim suspension of the letter dated 16.11.2018, in so far as the Appellant is concerned, during the pendency of the present appeal before this Tribunal.*** *Needless to state that the Order now passed by us shall be subject to the result of the main appeal. This I.A. is, accordingly, disposed of."*

Therefore, based on above submission and the order dated 23rd Mar' 2023 in IA no. 1766 of 2022 in Appeal no. 334 of 2021, it is requested that the Hon'ble Commission may consider normative cost of banking transactions at the rate of average power purchase cost of the portfolio of the Petitioner for FY 2018-19, thereby allowing power banking cost of Rs. 89.35 Cr which was disallowed by the Hon'ble Commission in Tariff Order dated 30th Sep' 2021 for FY 2018-19.

VI. O&M Expenses for 2nd MYT period

The Hon'ble Commission, instead of allowing rightful claim of AT&C Incentive, the Hon'ble Commission revised the O&M expenses for the years FY 2012-13 to FY 2016-17. The relevant extracts of the Hon'ble Commission from tariff order dated 30th Sep' 2021 for FY 2021-22 is reproduced below:

"3.22 In view of implementation of the Judgment in Appeal no. 246 of 2014, the Commission has also revisited the O&M expenses as earlier re-determined by the Commission in view of the judgment in Appeal no. 171 of 2012 in its tariff order dated 29.09.2015 to bring them to normative basis in accordance with the directions of Hon'ble APTEL.

3.23 Accordingly, the Commission has revised the O&M expenses for FY 2012-13 to FY 2016-17 with the norms as applied in the first MYT Control period considering the escalation in

Employee and A&G Expenses at 8% per annum and the k factor at 2.81% for the purpose of computation of the R&M expenses, as follows:

Table 3. 5: Revised the O&M expenses for FY 2012-13 to FY 2016-17

Particulars	FY 11-12 (Base Year)	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Employee Expenses (Net of Capitalisation)	189.40	204.55	220.92	238.59	257.68	278.29
A&G Expenses	39.57	42.74	46.15	49.85	53.83	58.14
R&M Expenses	84.40	92.92	97.36	102.21	110.64	120.00
Total O&M Expenses now Approved	313.37	340.21	364.43	390.65	422.15	456.43
O&M Already approved in Tariff orders		392.67	415.05	440.41	475.61	534.95
To be allowed/(recovered)		52.46	50.62	49.76	53.46	78.52

The Petitioner is of the considered view that the Hon'ble Commission's said findings in the order dated 29th Sep' 2021 modification order and the Tariff Order dated 30th Sep' 2021 are illegal and likely to be interfered in the Appeal preferred by Petitioner under section 111 of the Electricity Act, 2003 before the Hon'ble APTEL against the Tariff order dated 30th Sep' 2021.

In terms of the findings of the Hon'ble Commission as indicated above revising the O&M expenses for the period FY 2012-13 to FY 2016-17, the Petitioner seeks the Hon'ble Commission to revisit its findings and give sanctity to the issue in line with its undertaking, compliance order furnished to the Hon'ble APTEL in Appeal 213 of 2018.

Further as per the Hon'ble APTEL order's dated 24th May' 2022, the Compliance order dated 04th Feb' 2021 will hold good, prevail and binds the parties involved i.e. the Hon'ble Commission and the Petitioner.

> *"78. Given the fact that denial came for the licensee in the tariff order close on the heels of the Suo Motu order, found bad in law, the caption of the press release (quoted earlier) issued by the State Commission on 30.09.2021 comes across as populist. Having heard the learned Counsel for the parties,* ***we find that DERC while passing the Tariff Order dated 30.09.2021, assailed by appeal no. 334 of 2021, has arbitrarily re-determined the O&M expenses for FY 2012-13 to FY 2016-17 thereby resulting in an adverse financial impact upon the licensee, statedly to the tune of Rs. 285 Crores along with applicable carrying cost.*** *It is*

apparent that the decisions taken by Order dated 30.09.2021 on the subjects of re-determination of AT&C loss trajectory and impact of increase in rate of Service Tax were influenced by the Suo Motu order dated 29.09.2019 which had illegally attempted to dislodge the Compliance Order dated 04.02.2021. Since the Suo Motu order has been found to be improper, unjust, and bad in law and is being vacated, consequently rendering the Compliance Order operative and in force, the decisions on the above-mentioned subject by the Tariff Order dated 30.09.2021 cannot be allowed to stand. We order accordingly. It would be the obligation of the State Commission to revisit the same and pass fresh orders in accordance with law on such issues, also for the period covered by the Tariff Order dated 30.09.2021. The Interlocutory application (IA no. 1971 of 2021) in appeal no. 334 of 2021 deserves to be allowed to this extent.

.....

(iv) The DERC is duty-bound to pass the necessary orders giving effect to the decisions taken by the Compliance Order dated 04.02.2021 in relation to the determination of the tariff for the relevant control periods including the period covered by the Tariff Order dated 30.09.2021 in case no. 03 of 2021, which it must now do without further delay or demur, at the earliest, not later than two months of this judgment.

(v) As a sequitur to the above, the orders on the two subject-issues passed in appeal no. 213 of 2018 continue to be in force, there being no occasion for their recall or modification."

Further, the Hon'ble APTEL vide order dated 22nd Jul' 2022 gave the following directions and clarification:

"The judgment dated 24.05.2022 disposing of appeal nos. 332/2021 and DFR 38/2022 as indeed IA no.1971/2021 in appeal no.334/2021, also governing the pending appeal nos. 213/2018 and 334/2021, ***in which some issues survive for consideration, does not call for any such clarification as is sought, there being no ambiguity****.* ***The decision will have to be followed in true light and spirit of the observations made and the directions given in the said judgment.*** *The applications are disposed of with these observations."*

Further, the Petitioner has filed a Review Petition with the Hon'ble Commission seeking review of the Commission's order dated 21st Jul' 2022 regarding compliance of the Hon'ble APTEL order dated 24th May' 2022 giving effect to the two issues of the Compliance order dated 04th Feb' 2021 in the ensuing Tariff Order.

In the event if the Hon'ble Commission implements the issue on aforesaid O&M expenses revision (as per claims of Petitioner), in spirit of its Compliance order dated 04.02.2021, it will reduce the pendency of disputes before the Hon'ble APTEL. The Hon'ble Commission is well aware that such re-opening of past settled issues like O&M expenses is not permissible in perpetuity, future True up exercises and that too while considering implementation of the Hon'ble APTEL judgments, where the powers of the Hon'ble Commission are limited to the issue in question to be implemented.

Therefore, it is requested to the Hon'ble Commission to allow Rs. 284.82 Cr along with the carrying cost as per the following table on account of O&M expenses for FY 2012-13 to FY 2016-17:

(Rs Cr)

Particulars	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
O&M Already approved in Tariff orders	392.67	415.05	440.41	475.61	534.95
O&M Expenses Approved in Sep'21 Tariff Order	340.21	364.43	390.65	422.15	456.43
To be allowed (excluding carrying cost)	52.46	50.62	49.76	53.46	78.52

The Hon'ble Commission is humbly submitted and bound to consider and implement the said issues in the upcoming tariff order.

VII. Merit Order Dispatch impact for FY 2013-14, FY 2014-15 and FY 2016-17

(Impact on account of Judgement pronounced by the Hon'ble Commission in Petition no 10 of 2014)

This Hon'ble Commission by its Tariff Order dated 29th Sep' 2015 while Truing Up the power purchase costs for FY 2013-14 had disallowed Rs. 49.11 Cr alleging that scheduling of power was done by the Petitioner without considering the Merit Order Despatch, as under:-

"3.259 Therefore, avoided Power Purchase Cost due to scheduling of Power without considering Merit Order Dispatch Principle by the Petitioner is Rs. 49.11 Crore which has been computed based on slot wise and plant wise energy details received from SLDC and considering the actual station wise average Variable rates for FY 2013-14. The said amount has not been considered in the Power Purchase Cost of FY 2013-14."

Thereafter in the Tariff Order dated 28th Mar' 2018 (At Para 3.15), this Hon'ble Commission has revised the disallowance of Rs. 49.11 Cr and has reduced the same to Rs. 45.80 Cr, thereby allowing Rs. 3.31 Cr to the Petitioner for FY 2013-14. Year wise breakup of the amount disallowed by the Hon'ble Commission for FY 2013-14, FY 2014-15 & FY 2016-17 is given below:

Allowance of disallowed amount of Merit Order Scheduling **(Rs Cr.)**

S. No.	Particulars	*FY 14	FY 15	FY 16	FY 17
A	Amount Disallowed	49.11	0.04	0.00	1.56
B	Less- Already Allowed	3.31*	-	-	-
C	Differential amount now sought	45.80	0.04	0.00	1.56
D	Less allowed in TO FY 2020-21	22.90	-	-	-
E	Total amount required	22.90	0.04	-	1.56

** An amount of Rs. 3.31 Crores was allowed for FY 2013-14 in Tariff order dated 28th March 2018.*

The Petitioner in its Petition No. 10 of 2014 before this Hon'ble Commission had sought permission from the Hon'ble Commission to produce relevant evidence of SLDC, so that it can state that there is no default at the Petitioner side to comply with the merit order dispatch principle.

Based on the evidence provided, the Hon'ble Commission by Order dated 06.12.2019 in Petition No. 10 of 2014 had stated that the claim of the Petitioner regarding disallowance of power purchase account for those plants whose energy has been forcefully scheduled to the petitioner shall be considered in the next ARR exercise.

Relevant extract of the Order dated 06th Dec' 2019 is reproduced below:

"c) Payments towards the excess energy forcefully scheduled by SLDC to TPDDL in deviation to the scheduling requirements of TPDDL

*The Petitioner had provided a list of instances of forced scheduling of power for financial year 2016 and 2017 to SLDC, which was analyzed by the SLDC and it was confirmed that the instances of such forced scheduling was done on account of technical/transmission constraints. Regarding the request of the Petitioner that it should not be subjected to adverse impact DSM penalty and merit order violation penalty due to forced scheduling of power by Delhi SLDC which is attributable to technical constraints, **the claim of the Petitioner regarding disallowance/penalty on account of violation of merit order dispatch shall be considered during the next ARR exercise."***

Based on above, the Petitioner in its Tariff Petition for FY 2019-20 had requested to the Hon'ble Commission to allow Rs 47.40 Cr as stated in the table above along with the carrying cost.

This issue was also challenged by the Petitioner in Appeal No. 213 of 2018 whereby the Hon'ble APTEL by Order dated 22.09.2020 had directed as under:

"... ***DERC, by order dated 06.12.2019 had expressed that the subject matter of merit order despatch i.e. issues 15 & 25 in the above appeal would also be considered during tariff proceedings for 2020-21.***

We seek clarification even on this issue from the Respondent Commission by next date of hearing."

However, this Hon'ble Commission in its Tariff Order dated 28th Aug' 2020 has provisionally allowed only 50% of the total amount of Rs 45.80 Cr. for FY 2013-14 only (i.e. Rs 22.90 Cr).

S. No.	Particulars	FY 14	FY 15	FY 16	FY 17
A	Amount Disallowed	49.11	0.04	-	1.56
B	Less- Already Allowed	3.31*	-	-	-
C	Differential amount now sought	45.80	0.04	-	1.56
D	Less allowed in TO FY 2020-21	22.90	-	-	-
E	**Total amount required**	**22.90**	**0.04**	**-**	**1.56**

** An amount of Rs. 3.31 Crores was allowed for FY 2013-14 in Tariff order dated 28th March 2018.*

Thereafter, the Hon'ble APTEL in its Order dated 26th Nov' 2020 passed in Appeal No. 213 of 2018 has directed that:

"...................*It is stated by the Respondent's counsel that the Appeals are pending before the Hon'ble Supreme Court against the same issues. However, there is no stay granted till now.*

In that view of the matter, ***the Respondent is directed to comply with the directions granted by us. In case the Hon'ble Supreme Court holds the Appeals in favour of the Respondent herein, at that time, the Respondent is at liberty to comply with the directions of the Hon'ble Supreme Court."***

Further the Petitioner would like to inform that that there was no Discoms wise scheduling in FY 2012-13 and FY 2013-14 till 21st Feb' 2014. Discoms wise scheduling was started by Delhi State Load Dispatch Center (SLDC) from 22nd Feb' 2014. Delhi SLDC, in its reply at para 29 in Petition No. 10 of 2014 had already given the following response to Hon'ble Commission:

a. *DISCOM-wise scheduling was implemented from 22.02.2014 onwards. There were some initial teething troubles though for few months.*
b. *Network constraints, grid security aspects etc. will always have preference to economic factors.*
c. *Before 22nd Feb' 2014,* ***there was no violation of MOD and Delhi SLDC/ NRLDC scheduled power for Delhi as a whole considering grid and network constraints****.*

These facts were also illustrated by Delhi SLDC in the meeting with Hon'ble Commission held on 30th May' 2022. It was also discussed during the meeting that all the required data from NRLDC and IEX has been received by the Hon'ble Commission for the conclusion of the MOD issue.

Further, Delhi SLDC in its reply dated 13th Dec' 2013 to the Hon'ble Commission query has mentioned that the scheduling software is being revised to facilitate DISCOM-wise scheduling. In the same letter, Delhi SLDC has also mentioned that at present 80% of the scheduling requirements are being met through ISGS whose scheduling responsibility lies with NRLDC. This generation is not scheduled strictly as per the requirement of Discoms of Delhi though Delhi SLDC places the requisition according to the total demand of Distribution Companies. For example, the schedule of Jhajjar power of Delhi varies from 100-150 MW against the requirement of Nil. The Schedule of Distribution Companies versus actual schedule done by NRLDC on 11th Dec' 2013 is as under:

Duration in Hrs.	Requisition by Delhi SLDC in MW	Scheduled by NRLDC in MW
00.00-05.00	NIL	108.44
05.00-06.00	NIL	86.92
06.00-07.30	NIL	84.61
07.30-08.00	NIL	83.69
08.00-17.45	NIL	81.32
17.45-24.00	NIL	82.26
Total in MUs	NIL	2.104

Thus from the above responses of Delhi SLDC, it is very clear that before 22nd Feb' 2014, there was no violation of MoD and Delhi SLDC/ NRLDC scheduled power for Delhi as a whole considering grid and network constraints. Further even after 22nd Feb' 2014, though Discom wise schedule was implemented, the requirement of DISCOMs doesn't have any significance due to adhoc scheduling by NRLDC.

In view of the above, it is again requested to the Hon'ble Commission to allow balance amount of Rs 24.50 Cr along with carrying cost.

VIII. Street Light Material Impact of Judgement in Petition no 04 of 2014

The Hon'ble Commission in its Order dated 4th Dec 2019 in Petition no 04 of 2014 has agreed to allow impact of Rs 1.97 Cr. for FY 2009-10 in the next tariff order as under:

"ISSUE NO.3:

Rs. 1.97 Cr. Additional street light material billing inadvertently offered for ARR without claiming corresponding expenses on material cost of street lighting.

24. As much it is related to the claim of the petitioner that Rs.1.97 crore towards additional street light material inadvertently included for ARR without claiming corresponding expenses on material cost of street light, the same was not allowed as the audited account submitted by the Petitioner has entries grouping various expenses and as such Rs.1.97 crore towards additional street light material could not be verified. If the Petitioner has made an inadvertent error as claimed, it may be allowed to be rectified subject to prudence check. The Petitioner is directed to get the entry regarding Rs.1.97 Cr. reconciled and verified within one month from the issue of this Order. ***The impact of the claim of the Petitioner on being admissible may be considered in the subsequent Tariff Order."***

It is worth mentioning that the prudence check of the above said claim has already been done & the required documents have also been submitted before the Hon'ble Commission by the Petitioner.

Based on the above judgement, it is requested to the Hon'ble Commission to allow the impact of Rs 1.97 Cr along with carrying cost in the upcoming tariff order.

IX. Reversal of Efficiency factor on O&M expenses for FY 2015-16

In order to comply with the Hon'ble APTEL Judgment dated 10th Feb' 2015, the Hon'ble Commission has reversed efficiency factor for FY 2011-12 to FY 2014-15 in its Tariff Order for FY 2018-19.

However, while reversing the efficiency factor as per the Hon'ble APTEL order the Hon'ble Commission has reverse efficiency factor for FY 2012-13 to FY 2014-15 and not given impact for reversal of efficiency factor for FY 2015-16.

Against the Tariff Order for FY 2018-19, on the same issue, BRPL has prayed to the Hon'ble Commission for review through its Review Petition 30 of 2018.
Against the Review Petition, the Hon'ble Commission has pronounced its Judgment on dated 13th Dec' 2019 and decided to allow it on provisional basis.

Relevant extract of the Review Order dated 13th Dec' 2019 is reproduce below:
"3.8.2 Keeping in view the fact that the issue relating to computation of efficiency factor is currently sub-judice before Hon'ble Supreme Court, the effect of efficiency factor for FY 2015-16 is thus provisionally allowed subject to the outcome of the Civil Appeals Nos. 8660-61 of 2015 pending in the Apex Court."

Thus, based on above submission, it is requested to the Hon'ble Commission to reverse Rs. 19.69 Cr for efficiency factor of FY 2015-16 along with carrying cost in upcoming Tariff order.

X. Wrong reversal of material cost of Rs 3.36 Cr & Rs 4.12 Cr incurred towards maintenance of streetlight for the year FY 2010-11 & FY 2011-12 respectively (Issue no 43 of Appeal 301 of 2015)

Extracts from Tariff Order July 2012, where the Hon'ble Commission has allowed the material cost expenses for FY 2010-11 is as following:

3.171 Hence, the Commission has approved the amount of Non Tariff Income as summarised below:

Table 37: Trued-up Non Tariff Income approved by Commission (Rs. Cr)

Particulars	Petitioner's Submission
Non Tariff Income as per audited accounts	134.82
Less:	
Transfer from capital grants	*0.38*
Transfer from consumer contribution for capital works	*12.01*
Provision for doubtful debts / advances	*16.18*
Interest/Short term capital gain	*1.58*
Service Line Charges to be deferred in future years	*3.77*
Income from Other Business	*0.40*
Financing Cost of LPSC	*9.20*
Material Component of Street Light Maintenance Charges	*3.36*
Add	
Interest on Consumer Security Deposit	*9.79*
Total Non Tariff Income	**97.73**

Annual Revenue Requirement for FY 2010-11

Delhi Electricity Regulatory Commission — Page 89, July 2012

Extracts from Tariff Order July 2013, where the Hon'ble Commission has allowed the material cost expenses for FY 2011-12 is as following:

3.122 Hence, the Commission has approved the amount of Non Tariff Income as summarised below:

Table 25: Trued-up Non Tariff Income approved by Commission (Rs. crore)

Sl. No	Particulars	Amount	
a	Other Operating Income	139.41	
b	Other Income	21.49	
1	Non Tariff Income as per Audited Accounts		160.90
	Less: Income included in above, not passes for Tariff determination		
a	*Transfer From Capital grants*	*0.40*	
b	*Transfer from consumer contribution for capital works*	*14.05*	
c	*Interest / short term capital gain*	*11.41*	
d	*Service Line Charges to be deferred in future years*	*4.43*	
e	*Income from Other Business*	*0.86*	
f	*Financing of LPSC Charges*	*13.42*	
g	*Rebate of Power Purchase*	*29.36*	
h	Normative Interest on CSD	(13.71)	
i	Maintenance charges towards recovery of material cost	4.12	
j	Income pertaining to generation division	0.10	
2	Total (a to j)		64.44
	Total : Non Tariff Income (1-2)		96.46

Thus, from above extracts it is evident that Maintenance charges towards recovery of material cost was allowed by the Hon'ble Commission in FY 2010-11 & FY 2011-12.

Further in September'15 Tariff Order, the Hon'ble Commission has reversed the material cost on the pretext that it is allowed in normative O&M Expenses. Extract below:

Recovery of Material cost towards street lights

Commission's Analysis

3.76 The Petitioner is allowed normative O&M costs without excluding the material cost utilised towards maintenance of the street lights. Therefore the Commission has decided to include the recovery on material cost under maintenance charges of street light under non tariff income. Accordingly, the amount of Rs. 3.36 Crore and Rs. 4.12 Crore recovered towards material cost under maintenance charges has been included in non tariff income for FY 2010-11 and FY 2011-12 respectively.

It is submitted that the petitioner in its True up Petition for FY 2010-11 had already mentioned that the cost of material issued towards street light maintenance was not part of base cost of FY 2006-07. Relevant extract of the said petition (page no 57) is reproduced below:

Cost of Material Issued for Street Light Maintenance

The Hon'ble Commission in its order 22.09.09 has revised the maintenance charges from Rs. 73/unit to Rs. 103/unit so as to recover Rs7/unit towards painting/ numbering of poles and rs. 19/unit towards the material cost issued for maintenance of streetlights. TPDDL has billed Rs. 3.36 Cr on account of above during FY 10-11 which is included in maintenance charges. As TPDDL has incurred the cost towards light material; hence the billing amount towards street light material is not offered as Non-Tariff Income.

Therefore based on the above submissions, it is once again clarified that while street light material cost was never a part of O&M expenses in base year i.e. FY 2006-07, therefore, O&M expenses allowed for first MYT period also never included normative street light material expenses, however it is noted that revenue billed corresponding to the street light material was taken by the Hon'ble Commission as non-tariff income for the purpose of tariff determination. Therefore, against the natural justice on one side the Hon'ble Commission has considered income towards street light material cost as non-tariff income and on the other side has not allowed corresponding street light material expenses.

Thus, based on the above submission, it is requested to the Hon'ble commission to allow Rs 3.36 Cr. & Rs 4.12 Cr. For FY 2010-11 & FY 2011-12 respectively for material cost toward maintenance of streetlight along with carrying cost in upcoming Tariff order

Allowance of impact on Carrying cost due to change in debt rate i.e. at SBI PLR rate

The Hon'ble Supreme Court in its order dated 15th October 2022 in the Civil Appeal No. 9003-9004 OF 2011 titled BRPL vs DERC has decided the issue in favour of BSES and allowed the SBI PLR on 70% debt component for funding regulatory asset/revenue gap.

In the above said order, the Hon'ble Supreme Court has observed in issue no. 2 related to "Interest rate of Carrying cost" that the Hon'ble Commission has substituted the words 'prevailing market rate keeping in view the prevailing Prime Lending Rate' with the words 'actual interest rate paid by DISCOM on their loans' which is not permissible and has directed the Hon'ble Commission to allow SBI PLR on 70% debt component for funding regulatory asset/revenue gap in the ratio of 70:30.

The relevant portion of the judgement is reproduced below for reference:

13. In our view, it is clear that DERC has substituted the words 'prevailing market rate keeping in view the prevailing Prime Lending Rate' with the words 'actual interest rate paid by BRPL and BYPL on their loans' which is not permissible in view of the aforesaid judgment of the APTEL. A comparison of the two is given below:

Particular	FY 08	FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	FY 21
BRPL Rate of s	11.03 %	11.47 %	11.30 %	11.87 %	13.11 %	15.26 %	15.02 %	15.14 %	14.19 %	14.07 %	13.85 %	13.38 %	12.25 %	12.24 %
BYPL Rate of	10.93 %	11.66 %	11.37 %	11.56 %	13.28 %	15.19 %	15.17 %	15.40 %	14.63 %	14.28 %	14.16 %	13.93 %	12.53 %	12.20 %
SBI PLR	12.69 %	12.79 %	11.87 %	12.26 %	14.40 %	14.61 %	14.58 %	14.75 %	14.29 %	14.04 %	13.68 %	13.68 %	13.58 %	12.27 %

The issue of rate of interest on carrying cost was first challenged by the Petitioner before the Hon'ble APTEL in Appeal no. 153 of 2009 against the Tariff Order of May' 2009 and the Hon'ble APTEL in its judgment dated 30th July' 2010 directed the Hon'ble Commission to reconsider the rate of carrying cost at the prevalent market rate keeping in view the prevailing Prime Lending Rate.

Further, the Hon'ble Commission has preferred a Civil Appeal No. 5845 of 2014 against the Order/Judgement of APTEL dated 28th Nov' 2013 challenging the following issue.

"ISSUE 15 (c): Carrying cost should be allowed for financing the revenue gap on a debt equity ratio of 70:30"

However, there is no stay granted by the Hon'ble Supreme Court in Civil Appeal No. 5845 of 2014 to the Hon'ble Commission. In the meanwhile, above said order of the Hon'ble Supreme Court has attained finality in case of similarly placed BSES DISCOM's and the issue has been decided in their favour.

Therefore, it is requested that the Hon'ble Commission may accordingly revise the interest rate of carrying cost for the debt portion on SBI PLR from FY 2007-08 to FY 2016-17 for the Petitioner and allow its impact in ensuing Tariff order.

Allowance of Late Payment Surcharge (if any) regarding various issues/differences having arisen between TPDDL and the State Generating Utilities, i.e., IPGCL and PPCL

The Petitioner has initiated proceedings before the Hon'ble Commission under section 86 of the Electricity Act 2003 vide Petition No. 29 of 2020 while the said proceedings were pending before the Hon'ble Commission the Petitioner and the Respondent generating companies have held multiple meetings and deliberations to resolve the same. Vide Minutes of meeting dated June 2022 few issues which were part of the said petition have been resolved. Vide the Hon'ble Commission's Tariff order 2021 issue on Taken-or pay liability has also been addressed.

The Petitioner has been engaged in continuous correspondence and follow up with the Respondents bringing to their notice the incorrect outstanding of principal amounts followed by arbitrary subsidy diversion in blatant violation of the Act and the Hon'ble Delhi high court orders passed in WP no 422 of 2018 Tata Power-DDL vs GNCTD.

The said reconciliation is still not finally settled and liability for LPSC contrary to the correct legal proposition continues to be shown as outstanding by Respondents. Due to the said conduct of the respondents the Petitioner has not been able to extinguish the outstanding liability towards LPSC or claim eligible rebate for timely payment of current dues.

The Petitioner submits that the Hon'ble Commission may allow any such amount including LPSC liability which the Petitioner has to incur owing to the arbitrary diversion of subsidy, RpH & Take or pay billings and other heads of disputes pending between the Petitioner and Respondents before the Hon'ble Commission in the ARR for FY 2024-25 if any such disputed payments of amounts and LPSC are made by the Petitioner. The same is being sought subject to final outcome of the dispute under adjudication by the Hon'ble Commission in Petition 29 of 2020.

Based on all above submission, the issue wise and year wise impact along with carrying cost is computed as below:

Particulars	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	FY 21	FY 22
Impact of Suo Moto Letter dated 01st Aug' 2023													
Rithala Impact		8.73	65.22	68.76	56.92	49.54	50.47	50.17	45.05				
Re-determination of AT&C Losses (Differential)				25.95	27.53	29.54	38.56	49.57					
Non-consideration of impact of increase in rate of Service Tax				2.27	4.17	3.7	8.89	11.62					
Other Expenses				0.93	0.9	-	-	-					
Impact of Review Petition 57 of 2021										35.08	2.08		
Impact of Other Favourable Judgement													
Power Banking										89.35			
O&M Expenses of for 2nd MYT period				52.46	50.62	49.76	53.46	78.52					
Merit Order Dispatch Disallowance					22.9	0.04		1.56					
Street Light Material Petition No. 10 of 2014	1.97												
Rithala Impact- incentive									0.62				
Efficiency Factor FY 15-16							19.69						
Wrong reversal of material cost incurred towards maintenance of streetlight for the Years 2010-2011 and 2011-12		3.36	4.12										
Total Addition	**1.97**	**12.09**	**69.34**	**150.37**	**163.04**	**132.58**	**171.07**	**191.44**	**45.67**	**124.427**	**2.08**	**-**	**-**

Carrying cost rate*	10.17%	10.41%	12.20%	11.78%	11.88%	11.98%	12.08%	12.08%	10.33%	10.13%	10.21%	9.89%	9.30%
Opening Balance	0	2.07	15.00	90.41	260.28	463.93	660.03	921.16	1235.44	1411.09	1684.76	1858.96	2042.82
Addition	1.97	12.09	69.34	150.37	163.04	132.58	171.07	191.44	45.67	124.427	2.08	0	0
Carrying Cost Amount	0.10	0.84	6.06	19.51	40.61	63.52	90.06	122.84	129.98	149.25	172.12	183.85	189.98
Closing Balance	**2.07**	**15.00**	**90.41**	**260.28**	**463.93**	**660.03**	**921.16**	**1235.44**	**1411.09**	**1684.76**	**1858.96**	**2042.82**	**2232.80**

** Carrying cost rate taken as per pervious rate allowed by the Hon'ble Commission. However, the carrying cost on above issues will change when SBI PLR rates are applied.*