



**ORDER**  
**OF THE**  
**WEST BENGAL ELECTRICITY REGULATORY COMMISSION**  
**FOR THE YEAR 2019 – 2020**  
**IN**  
**CASE NO: APR – 108 / 22 – 23**

IN REGARD TO THE APPLICATION FOR ANNUAL PERFORMANCE REVIEW FOR THE FINANCIAL YEAR 2019 – 20 IN RESPECT OF DISTRIBUTION AND RETAIL SUPPLY OF ELECTRICITY BY DAMODAR VALLEY CORPORATION FOR THE PART OF THE DAMODAR VALLEY AREA FALLING WITHIN THE TERRITORY OF THE STATE OF WEST BENGAL

**PRESENT:**

**DR. MALLELA VENKATESWARA RAO, CHAIRPERSON**  
**SRI PULAK KUMAR TEWARI, MEMBER**

**DATE: 11.01.2024**



## CHAPTER – 1 INTRODUCTION

- 1.1 In terms of regulation 2.6 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended from time to time (hereinafter referred to as the 'Tariff Regulations'), the generating companies or the licensees, as the case may be, are subjected to Annual Performance Review (in short 'APR'). The West Bengal Electricity Regulatory Commission (hereinafter referred to as the 'Commission') introduced Multi Year Tariff (in short 'MYT') procedure and as such, APR aims at carrying out adjustments arising out of difference between the actual performances and projected performances under different factors / heads of accounts. Such adjustments are now to be done in the manner as specified in the Tariff Regulations. Damodar Valley Corporation (in short 'DVC') submitted their APR application for the year 2019 – 2020 vide communication dated 8<sup>th</sup> October, 2022, received on 14<sup>th</sup> October, 2022. DVC, however, submitted additional information / data as was asked for by this Commission from time to time. It provided the requisite data / information in the specified proforma. Copies of its annual reports and audited annual accounts for the concerned year were also submitted by DVC along with the application and the adjustment in generation and power purchase cost for the year 2019 – 2020. The APR application submitted by DVC was admitted by this Commission for processing and the same was numbered as APR-108/22-23 for the year 2019 – 2020.
- 1.2 APR for the year 2019 – 2020 is the review of the different elements of fixed charges, categorized as controllable and uncontrollable, allowed to DVC through the ARR for the year 2019 – 2020 issued on 17.06.2022 in case no. TP-79/18-19 in compliance with the judgement dated 13.01.2022 of the Hon'ble High Court at Calcutta vis-à-vis the actuals as per the audited accounts.
- 1.3 The instant APR application of DVC is for the year 2019 – 2020 under the sixth control period. The adjustments, as may arise out of the review of annual





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performance for the year 2019 – 2020 will be considered for giving effect to while determining the amount of revenue adjustable through tariff order of any ensuing year or through separate order as specified in regulation 2.6.6 of the Tariff Regulations.

- 1.4 This Commission has taken careful note of the representations made by DVC. The relevant issues will be addressed accordingly while examining the admissibility of expenses under different heads of accounts. The APR is to cover the annual fixed charges allowed to the licensee, the effect of gain sharing and incentives as per Schedule – 9B and Schedule – 10 of the Tariff Regulations. The instant application of DVC for the year 2019 – 2020 is being viewed in the subsequent parts of this order.
- 1.5 In terms of regulation 2.6.12 of the Tariff Regulations, the gist of the application of APR of DVC for the year 2019 – 2020 was published simultaneously in the 'Aajkaal', the 'Anandabazar Patrika', 'The Telegraph' and 'The Indian Express' on 5<sup>th</sup> January, 2023. The application of APR for the year 2019 – 2020 was also posted in the website of DVC. The publication invited the attention of all interested parties and stakeholders to the application for APR for the year 2019 – 2020 of DVC and requested for submission of suggestions and objections, if any, on the application to this Commission. The last date of submission of suggestions and objections was 25<sup>th</sup> January, 2023 (i.e., 21 days from the date of publication). Opportunities were also afforded to all to inspect the application and take copies thereof.
- 1.6 Upon publication of the gist, only Damodar Valley Power Consumers' Association (DVPCA) has submitted objections / suggestions against the APR application of DVC for the year 2019 – 2020 within the stipulated date and time i.e., till 5.00 P.M. on 25<sup>th</sup> January, 2023. The objections / suggestions of DVPCA is summarized in Chapter – 3.



- 1.7 Hon'ble Supreme Court of India has issued an order on 15/05/2023 in Civil Appeal nos. 3164-3171 of 2022, wherein this Commission has been directed to consider the issue relating to truing up charges pending before it without being influenced by any of the proceedings pending before the Appellate Tribunal for Electricity (in short "APTEL") or any other Forum or order(s) passed by the APTEL or any other Forum. The Hon'ble Supreme Court of India has also directed that before passing any order, this Commission would give an opportunity of hearing to parties concerned.
- 1.8 Accordingly, notice for e-hearing on 30.06.2023 was served upon the parties concerned viz. DVC, DVPCA, Steel Authority of India Limited, IISCO Steel Plant (SAIL), Inox Air Products Private Limited and Dinman Polypacks Private Limited (DPPL). After hearing the oral submissions of the parties on 30.06.2023, this Commission directed all parties to submit written note within 10.07.2023. SAIL, DPPL and DVC have submitted written note within 10.07.2023 whereas DVPCA has submitted on 18.07.2023. The submissions made by the parties are summarized in Chapter – 4.





## CHAPTER – 2

### CASE OF DVC

- 2.1 Damodar Valley Corporation (herein after refer to as the “DVC”) has filed this application seeking Annual Performance Review (hereinafter refer to as the “APR”) in respect of distribution and retail supply of electricity by DVC as a deemed distribution licensee for the FY 2019 – 2020 within the State of West Bengal in accordance with the provisions of West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, and subsequent amendments thereof.
- 2.2 DVC had filed the APR petition for the FY 2019 – 2020 before this Commission vide letter dated 08.10.2022 based on tariff order in respect of the unified Transmission and Distribution network for the period 2019 – 24 and available provisional tariff orders of CERC for the period 2014 – 19 i.r.o its own generating stations since the Central Commission is yet to issue the final orders for 2019-24 till the date of submission.
- 2.3 Upon scrutiny of the petition, it was observed that relevant regulatory forms in accordance with the Tariff Regulations were not submitted along with the petition. Accordingly, DVC was advised vide letter dated 11<sup>th</sup> November, 2022 to submit all the relevant regulatory forms within 15 days from the date of receipt of the letter. DVC vide their letter dated 2<sup>nd</sup> December, 2022 submitted all the regulatory forms along with some additional information with a request to consider the same as an integral part of the original APR petition submitted vide letter dated 08.10.2022.
- 2.4 In letter dated 2<sup>nd</sup> December, 2022, it is submitted by DVC that CERC vide order dated 30.11.2022 has issued the tariff order for 2019 -2024 period in respect of MTPS U#4. Accordingly, the ARR has been modified based on the latest available CERC orders annexed with the petition.



- 2.5 DVC as a deemed distribution licensee undertakes the retail sale and supply of electricity to the consumers in the Damodar Valley area and the same is covered by Section 62(1)(d) of the Electricity Act, 2003. DVC also supplies electricity to the licensees located in the state of West Bengal viz. West Bengal State Electricity Distribution Company Limited (WBSEDCL) at ten (10) different off take points in radial mode (also addressed by the utility as 'Consumer mode') and to the India Power Corporation Limited (IPCL) at four (4) different off take points in consumer mode through its own T & D network. Each such point of supply has a specific contract demand as per the respective PPAs. Aforesaid mode of supply, as per the subsisting PPAs, is covered by Section 62(1)(d) of the Electricity Act, 2003.
- 2.6 In the order dated 05.05.2022 for the FY 2017-18, this Commission has deducted the revenue realized by DVC from WBSEDCL and IPCL from the approved ARR to arrive at the average cost of supply from which the Tariff was designed for the consumers other than WBSEDCL and IPCL. This Commission has also adopted the similar approach in the Tariff Order dated 17.06.2022 for FY 2018-19 and FY 2019-20 as well. This has resolved the mismatch in consideration of revenue requirements effective from 01.04.2017.
- 2.7 DVC submits before this Commission to consider the revenue realized amount from IPCL and WBSEDCL instead of the amount claimed in bill to the said licensees for the purpose of determination of revenue gap / surplus.
- 2.8 It is submitted that, after the judgement dated 23.07.2018 of Hon'ble Supreme Court, at present there is no pending legal proceedings of DVC that may cause any obstruction for fixing the norms of Transmission loss for DVC by this Commission. DVC also in this regard humbly submits that since the transmission activity and distribution activity of the grid networks of DVC are inseparable, this Commission may be pleased to allow composite T&D Loss to DVC instead of only the distribution loss.





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- 2.9 DVC claimed composite T&D loss of 2.66% during the FY 2019 – 2020 which is comparatively lower. In response to the communication of this Commission dated 16.02.2023, DVC has revised the Form 1.7, 1.9 and 1.9(d) vide letter dated 02.03.2023 claiming T&D loss of 2.64%.
- 2.10 It is submitted by DVC as on 02.12.2022 that DVC has already filed the Tariff petition in respect of all the generating stations for the period 2019-24 before CERC. However, the Central Commission is yet to issue the orders for 2019-24 period (in the meantime, all Tariff orders for 2019-24 period except for BTPS 'A' have been issued by CERC). In absence of the Tariff orders, DVC has considered the Annual Fixed Cost of 2018 – 19 as available in the Tariff orders for the period 2014-19 in respect of its own generating station. DVC craves leave before this Commission to modify the ARR of the distribution activity based on the True-Up orders for the period 2019-24 once they are available.
- 2.11 CERC while issuing tariff orders for different generating stations and T&D system for the period 2014-19 has not allowed the claim of DVC in respect of contribution to Pension & Gratuity fund (P&G fund), additional O&M expenditure etc. for the period FY 2014-19. Aggrieved with the decision of CERC, DVC has filed appeals before the Hon'ble Appellate Tribunal challenging the tariff orders of CERC for the period 2014-19. DVC, therefore, craves leave to revise the APR application based on the decision of the Hon'ble Tribunal on the said appeals filed by DVC.
- 2.12 Apart from the conventional power purchase, DVC also procures 40 MW solar power from NTPC and NTPC Vidyut Vyaper Nigam Limited (NVVNL) on long term agreement for fulfilling its Renewable Purchase Obligation (RPO) as per directive of Ministry of Power, GoI under Jawahar Lal Nehru National Solar Mission (JNNSM) program. DVC has fulfilled a part of its Solar RPO through these Long-Term arrangements during FY 2019 – 20. DVC is constantly trying to arrange the required quantum of Renewable power to meet the RPO obligation. In the recent past DVC has installed solar power plant of a capacity of 4 MW.



DVC has also entered into an agreement with SECI for procurement of 200 MW solar Power. Accordingly, DVC prays before this commission to allow the cost of purchase of Solar power and Solar and Non-Solar RECs actually incurred by DVC for the year 2019 – 20.

- 2.13 The cost of renewable power is segregated between the two states i.e., West Bengal and Jharkhand based on the respective purchase obligation.
- 2.14 DVC has incurred expenditure to draw UI power from the grid in order to avoid any shedding to the consumers to maintain uninterrupted power supply. Accordingly, the cost of UI import is claimed in the instant APR petition as per annual accounts of DVC. Therefore, DVC prayed before this Commission to allow the expenses actually incurred by DVC for UI drawal during the period 2019 – 20 as claimed in the instant APR application.
- 2.15 It is submitted that, Ministry of Power, GOI vide letter No.1/10/2007-IT (pt.) dated 12.04.2010, letter no. 1/6/2011/IT-Pt. VIII (238324) dated 08.08.2017 and letter no. 1/6/2011-IT (204430) dated 20.04.2018 directed for taking-up the measures for prevention of cyber incidents and implementation of cyber security measures in the power sector. Accordingly, DVC has invested in cyber security measures. DVC submits before this Commission to allow it to recover the actual expenditures towards investment on Cyber Security in the ARR through tariff.
- 2.16 This Commission in the Tariff Order dated 17.06.2022 for FY 2019 – 20 has allowed the cost on account of Tariff Filling Fees, Licensee fees and Publication expenses related to Tariff Petition submitted before CERC on projection basis. DVC now submits the actual expenditure incurred under this head with a prayer to allow such cost at actual as the same has already been incurred.
- 2.17 In the instant APR petition, DVC submitted that in accordance with the Tariff order dated 17.06.2022, Rs 427195.21 lakh has been billed to consumers other than licensees for the FY 2019 – 20.





- 2.18 DVC has, however, mentioned that the revenue billed to consumers other than licensees is subject to change based on outcome of the appeals pending before the Hon'ble Appellate Tribunal and Hon'ble High Court at Calcutta as recovery of the arrear amount for the concerned financial year is stayed.
- 2.19 In the Tariff order dated 17.06.2022, revenue gap of Rs 18675.00 lakh for FY 2008 – 09 (determined vide order dated 19.07.2021) was allowed to be recovered through the Tariff of 2019 – 20. However, such past period revenue gap could not be recovered through tariff of the financial year 2019 – 20 due to litigation. It is submitted that till date, DVC could not realize the entire arrear amount which was billed in accordance with the Tariff Order dated 17.06.2022 issued by this Commission due to the stay on recovery of the arrear amount by APTEL and High Court at Calcutta. It is prayed before this Commission to allow the unrecovered past period Revenue Gap along with the current revenue gap in the subsequent years.
- 2.20 Since carrying cost @6% on revenue gap of 2008 – 09 was allowed in the tariff order dated 17.06.2022, DVC has computed the Carrying Cost @ 6% simple interest on the revenue Gap of FY 2008 – 09 upto March, 2023. It is prayed before this Commission to allow the interest component until it is allowed to be recovered considering the interest component of the installment period as well.
- 2.21 DVC has prayed the following before this Commission:
- a) determine the ARR based on submissions made herewith in respect of Annual Performance Review for the FY 2019 – 20 and allow DVC to adjust the under/over recovery as deemed proper;
  - b) settle other commercial issues based on the present submission and submissions made earlier by DVC for the relevant periods;
  - c) pass such other order(s) as this Commission may deem fit and proper keeping in view the facts and circumstances of the case.



**CHAPTER – 3**  
**SUGGESTIONS, OBJECTIONS AND COMMENTS RECEIVED AGAINST THE PETITION**

**3.0 OBJECTIONS / SUGGESTIONS:**

- 3.1 Objections and Comments have been received from Damodar Valley Power Consumers' Association (DVPCA) against the APR Petition filed by Damodar Valley Corporation (DVC). Observations and comments have been dealt with hereunder.
- 3.2 DVC has submitted that re-determination of the quantum of pension, gratuity and sinking fund contribution is not further required to be determined by the State Commission and therefore pension and gratuity and sinking fund contribution as determined by the CERC is to be included in the Revenue requirements of the DVC. Accordingly, DVC has computed ARR considering the entire pension, gratuity and sinking fund contribution as determined by the CERC for its stations without applying the actual availability factor on the same.

It is evident from the findings of Hon'ble APTEL (judgement dated 23.03.2016 in Appeal No. 255 of 2014) that the issue of adjustment of contribution to P&G and sinking fund based on the actual availability has already been settled by Hon'ble APTEL as well as by both JSERC & WBERC in plethora of Orders. DVC, despite being fully aware of this fact is trying to rake up the same issue every time before this Commission. The Objector humbly requests this Commission to reprimand DVC for such conduct and issue strict directions for not raising the same issue repeatedly before this Commission.

*View of this Commission:*

*The view of this Commission on this issue is recorded under paragraph 5.5.12 of this order.*





- 3.3 It is observed that DVC is attempting to make higher Allocation of T&D Charges to Firm Consumers. The entire Annual Fixed Charge approved by CERC in respect of T&D system amounting to Rs. 453.84 Crores has been allocated by DVC amongst the firm consumers of Jharkhand and West Bengal. It is submitted that the T&D network of DVC is being utilized for (i) export of power to PPA beneficiaries under schedule mode outside and (ii) sale to JBVNL, SAIL-BSL, JUSCO, TATA Steel, Indian Railways etc. in consumer mode and hence the T&D systems costs ought to be shared with such entities as well.

In view of the aforesaid, it is respectfully submitted that as per Objector's Assessment, the allowable T&D system costs on the firm consumers is to the tune of Rs. 185.91 Crores for FY 2019 – 20 as against Rs. 458.64 Crores claimed by DVC as per the calculation given in the petition of objector.

*View of this Commission:*

*The view of this Commission on this issue is recorded under paragraph 5.10 of this order.*

- 3.4 Thus, as per the Objector's assessment, the Fixed Cost Component of Power Purchase Cost from Own Generating Station and T&D Network of DVC for FY 2019 – 20 is Rs. 2872.04 Crores as per the calculation given in the petition of the objector.

*View of this Commission:*

*This Commission has noted the contentions of DVPCA. The issues of Fixed Cost Component of Own Generating Station and Fixed Cost Component T&D Network are dealt with in para 5.5 and para 5.10 of Chapter-5 respectively.*

- 3.5 It is submitted that DVC has erred in its computation of Interest on Differential AFC of T&D System and MTPS Unit #4 for FY 2019 – 20. The correct computation as per Objector's Assessment is Rs. 5.41 lakh and



Rs. (-) 53.16 lakhs on account of Interest on Differential AFC of MTPS Unit#4 and T&D System for FY 2019 – 20 respectively. Detailed computations have been given in the Objector's petition.

*View of this Commission:*

*The view of this Commission on this issue is recorded under paragraph 4.3.6 of this order.*

- 3.6 This Commission may approve the Fixed Cost Component of Power Purchase Cost from Own Generating Station and T&D Network of DVC as per the Objector's assessment.

*View of this Commission:*

*This Commission has noted the contentions of DVPCA. The issues are dealt in para 5.5 and para 5.10 of Chapter - 5.*

- 3.7 DVC has claimed Interest on Temporary Financial Accommodation for FY 2019 – 20 in the instant APR petition in Table-22 of Annexure-8 of additional submissions dated 02.12.2022. It is submitted that this Commission had disallowed DVC's claim towards Interest on Temporary Financial Accommodation in its APR Order dated 31.05.2021 for FY 2009 - FY 2014 and ARR order dated 17.06.2022 for FY 2019 – 20. It is prayed that this Commission may disallow DVC's claim towards Interest on Temporary Financial Accommodation for FY 2019 – 20 in consistency with its previous approach.

*View of this Commission:*

*The view of this Commission on this issue is recorded under paragraph 5.14.3 of this order.*

- 3.8 It is submitted that JSERC has disallowed claim of DVC on O&M Expenses on ULDC scheme in True-up Order dated 30.09.2022. It is prayed that this





Commission may follow similar approach and accordingly disallow claim towards AMC charge for Communication schemes under ULDC scheme. The Objector further prays to disallow expenses related to Cyber Security scheme claimed by DVC.

*View of this Commission:*

*The issues of AMC charge for Communication schemes under ULDC scheme and expenses for Cyber Security are dealt with in para 5.15 and 5.16 of Chapter-5 respectively.*

3.9 Non-Tariff Income

- 3.9.1 DVC has claimed non-tariff income at Rs. 21.74 Crores for DVC command area in West Bengal and Jharkhand for the year 2019 – 20.
- 3.9.2 The Tariff Regulations clearly provide for the items to be excluded from Non-tariff income. Any other income earned by DVC is also to be treated as Non-Tariff Income in terms of the aforesaid Regulations and applied as a reduction from the ARR. In fact, the above regulations clearly provide for the items to be reduced from ARR besides non-tariff income also.
- 3.9.3 A detailed analysis of the audited accounts of DVC for FY 2019 – 20 reveals that the actual income earned by DVC are far in excess of what it has applied for reduction in the yearly ARR submitted in the current petition (DVC has claimed only the late payment surcharge under Non-tariff income and has not considered income from other items for arriving at the final ARR).
- 3.9.4 It is pointed out that even in case of other Licensees, such as WBSEDCL, CESC, in the State of West Bengal this Commission (WBERC) has considered the entire 'other income' for reduction in the ARR.
- 3.9.5 It is pointed out that while the entire costs from its generation, transmission and distribution business is being recovered from the consumers, when it comes to



income, DVC has been pleading to consider only the late payment surcharge as non-tariff/ other income.

- 3.9.6 It is prayed that this Commission may consider Non-Tariff Income at Rs. 504.28 Crore instead of Rs. 21.74 Crore claimed by DVC.

*View of this Commission:*

*This Commission has dealt with the issue in paragraph 5.17 of this order.*

- 3.10 Sale to other Licensees in radial mode

3.10.1 DVC has submitted details pertaining to Sales and Revenue from Sale of Power to Other Licensees (WBSEDCL and IPCL) in the instant Petition. This Commission had issued Orders dated 01.03.2019 in OA-273/18-19 and OA-272/18-19 for WBSEDCL and IPCL, respectively, wherein this Commission had directed that DVC's sale of power to WBSEDCL and IPCL on radial mode cannot be treated as sale of power by a generating company to a consumer and both the parties are at liberty to settle the issues as per the provisions of law now in force.

3.10.2 It is submitted that, the Appeal No. 216 of 2019 and Appeal No. 190 of 2019 filed by DVC before the APTEL against the Orders dated 01.03.2019 in OA-273/18-19 and OA-272/18-19 for WBSEDCL and IPCL are sub-judice. However, there is no embargo on the same.

3.10.3 In the instant Petition, DVC has claimed the share of sale in West Bengal against the total consumer sale of DVC in their command area (%) as 55.18%. Since the DVC's sale of power to WBSEDCL and IPCL on radial mode is not to be treated as sale of power by a generating company to a consumer and since this Commission has not determined separate tariff for WBSEDCL and IPCL in its Order dated 17.06.2022 (for FY 2019 – 20 for DVC), the Objector submits to this Commission that it would be prudent to treat sales from DVC to WBSEDCL and





IPCL as bilateral sale to other licensees and hence exclude the same while computing the share of firm consumers sale in West Bengal against the total sale of DVC in their command area (%). The Objector has computed the Share of firm consumers sale in West Bengal against the total sale of DVC in their command area (%) as 51.16%.

3.10.4 In accordance with WBERC's statement in its Tariff Order dated 17.06.2022 for DVC for FY 2019 – 20 that it will review the projected sale of energy during truing up in the Annual Performance Review (APR) based on audited data for the concerned year, it is prayed that WBERC may approve the Share of firm consumers sale in West Bengal against the total sale of DVC in their command area(%) as 51.16% as computed by the Objector (which is also in accordance to the WBERC Orders dated 01.03.2019 in OA-273/18-19 and OA-272/18-19 for WBSEDCL and IPCL). Furthermore, it is prayed that revenue corresponding to sale of power to WBSEDCL and IPCL may not be considered while determining the ARR/Revenue Gap for FY 2019 – 20.

*View of this Commission:*

*The view of this Commission on this issue is recorded under paragraph 6.3.2 of this order.*

### 3.11 Interest on Working Capital

It is submitted that the interest on working capital has to be determined in accordance with Regulation 5.6.5.1 of the Tariff Regulations. Since, the actual power purchase allowable to Petitioner would reduce in terms of the justifications/explanations provided, the allowable working capital shall also undergo change.

Further, the rate of interest for computation of interest on working capital is to be considered in terms of regulation 5.6.5.2 of the Tariff Regulations. The interest on working capital has been worked out at the prevailing State Bank of India (SBI)



Prime Lending Rate (PLR) as on April 1st of the year preceding the year for which tariff is proposed to be determined or actual rate of borrowing whichever is less.

In terms of the provisions of the Tariff Regulations the amount of interest on working capital comes to Rs. 11.99 crores for FY 2019 – 20.

It is prayed that this Commission may approve the interest on working capital as per the Objector's assessment.

*View of this Commission:*

*The view of this Commission on this issue is recorded under paragraph 5.7 of this order.*

3.12 Revenue from Sale of Power and Adjustment of Revenue Gap/Surplus for FY 2006 – 09:

In the instant APR petition, DVC has submitted a revenue gap of Rs. 809.88 crores from Sale of Power and Adjustment of Revenue Gap/Surplus for FY 2006-09. As has already been submitted in the instant Objections, it is prayed that revenue corresponding to sale of power to WBSEDCL and IPCL may not be considered while determining the ARR/Revenue Gap for FY 2019 – 20.

On the issue of adjustment of Revenue Gap of Rs. 343.62 Crores (Rs. 186.75 Crores + Rs. 156.87 Crores) on account of WBERC's Order dated 19.07.2021 pertaining to DVC's APR for FY 2006-09 as proposed by DVC, the Objector submits that it has filed Appeals in the Appellate Tribunal against the aforementioned orders.

The Objector submits that the above Appeals are sub-judice and therefore, in the absence of final judgement, it is prayed that this Commission may disallow the adjustment of Revenue Gap and Carrying Cost of Rs. 343.62 Crores on account





of WBERC's Order dated 19.07.2021 pertaining to DVC's APR for FY 2006-09 as claimed by DVC.

*View of this Commission:*

*The view of this Commission on this issue is recorded under paragraph 4.4.7 of this order.*

- 3.13 DVC has proposed for composite T&D loss of 2.66% during the FY 2019 – 20. It is prayed that this Commission may approve T&D Losses at 2.20% as per norms specified in the WBERC Tariff Regulations in line with the Tariff Order issued by the WBERC for DVC for FY 2019 – 20.

*View of this Commission:*

*The view of this Commission on this issue is recorded under paragraph 5.4.4 of this order.*

- 3.14 Consumption of energy in own premises

- 3.14.1 In the Tariff Order dated 17.06.2022 issued by WBERC for DVC for FY 2019 – 20, WBERC had given certain directive to DVC pertaining to consumption of energy in own premises giving details with proper justification evidencing such consumptions at their own premises in the APR application.

It is submitted that DVC has not provided with such details in the instant Petition. Therefore, it is prayed that WBERC may disallow the quantum of energy claimed by DVC for consumption in the own premises for the 2019 – 20 in line with the aforementioned directive.

*View of this Commission:*

*The view of this Commission on this issue is recorded under paragraph 4.4.10 of this order.*



- 3.15 Clause 5.15(2)(iv) and 5.15(2)(vii) of the Tariff Regulations provide for sharing of gains or losses between the Distribution Licensee and the Consumers on Revenue Accounts. It is submitted that DVC has not submitted statement of sharing of gains or losses, in accordance to the aforementioned provisos.

It is prayed that this Commission may direct DVC to submit a statement of sharing of gains or losses and accordingly grant the benefit of the same to the consumers.

*View of this Commission:*

*The view of this Commission on this issue is recorded under paragraph 4.4.9 of this order.*

- 3.16 In view of the aforementioned discussions and detailed objections provided in the Objector's petition, the Objector has computed the ARR allowable and the allowable Revenue Surplus for DVC (WB) for FY 2019 – 20 as Rs. 3967.65 crores and Rs. (-) 304.30 crores, respectively.

*View of this Commission:*

*This Commission has noted the contentions of DVPCA. However, the allowable ARR and Revenue Surplus for DVC for the year 2019 – 20 has been worked out in Chapter-6 of this order based on the analysis made and the different allowable charges determined separately for 2019 – 20 in Chapter -5.*





## CHAPTER – 4

### WRITTEN NOTES OF SUBMISSION RECEIVED AGAINST THE PETITION

4.0 As per Order dated 15/05/2023 of Hon'ble Supreme Court of India in Civil Appeal nos. 3164-3171 of 2022, notice for e-hearing on 30.06.2023 was served to the parties concerned viz. DVC, DVPCA, Steel Authority of India Limited, IISCO Steel Plant (SAIL), Inox Air Products Private Limited and Dinman Polypacks Private Limited (DPPL). After hearing the oral submissions of the parties on 30.06.2023, this Commission had given liberty to all parties to file written note within 10.07.2023. SAIL, DPPL, DVC and DVPCA have submitted written notes. All the written notes submitted have been considered by this Commission and summarized as below.

4.1 Steel Authority of India Limited, IISCO Steel Plant (SAIL):

SAIL has stated that since the issues in all three APR applications are same, hence, common submission is being made as follows:

#### **Maintainability**

4.1.1 Since CERC determines the APR relating to Generation and Transmission tariff of DVC, the present applications for APR for Retail tariff of DVC are not maintainable.

#### *View of this Commission:*

*The Hon'ble Supreme Court of India has issued an order on 15/05/2023 in Civil Appeal nos. 3164-3171 of 2022, wherein this Commission is directed to consider the issue relating to truing up charges pending before it without being influenced by any of the proceedings pending before the*



*Appellate Tribunal for Electricity (in short “APTEL”) or any other Forum or order(s) passed by the APTEL or any other Forum.*

*Further, CERC has issued all tariff orders of DVC for the period 2019 – 24 except BTPS ‘A’ generating station till 30.06.2023 which have been considered by this Commission to determine the revenue gap/surplus of DVC for the year 2019 – 20.*

#### **Interest on Temporary Financial Accommodation**

- 4.1.2 In line with the order on APR of DVC for the years 2014-15 to 2016-17, the Interest on Temporary Financial Accommodation should not be allowed in APR for West Bengal, since the same relates to over-dues of Jharkhand State Electricity Board.

*View of this Commission:*

*This Commission has noted the issue and dealt with in subsequent paragraph.*

#### **Non Tariff Income**

- 4.1.3 In the APR petition of 2017-18 at Page 267, DVC has given a credit of Rs.466.76 crores towards Non-Tariff Income, whereas in the balance sheet for the year 2017-18 at page 321 of the petition, DVC disclosed Non-Tariff Income as Rs. 1113.51 crores relatable to power business.

*View of this Commission:*

*This Commission has noted the issue and dealt with in subsequent paragraph.*

- 4.1.4 The revenue gaps claimed by DVC are not correct and this Commission may conduct prudent check for the Revenue surplus for each of the financial years





after taking account the trued-up figures of the Generation and Transmission Tariff determined by the Central Commission.

*View of this Commission:*

*The contention of SAIL is noted by this Commission.*

4.2 Dinman Polypacks Private Limited (DPPL):

DPPL, a consumer of DVC in West Bengal, has filed a conjoint note for the years 2017 – 18, 2018 – 19 and 2019 – 20 as follows:

- 4.2.1 The impugned order was passed by this Commission on May 5, 2022 for the 5<sup>th</sup> control period for the Financial Year 2017-18 against the petition of DVC on 29.12.2016. It was erroneously held that DVC could recover enhanced Tariff as well as the difference thereof retrospectively for the 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> control periods in the year 2022 which is *de-hors* the established principles of law.

*View of this Commission:*

*This Commission was directed to determine the retail tariff for the period 2017-2018, 2018 – 19 and 2019 – 20 vide order dated 13.01.2022 of the Hon'ble High Court at Calcutta in case No: W.P.A. No. 153 of 2022. Accordingly, this Commission passed the tariff order of DVC for the years 2017-18 and 2018-19 and 2019-20 based on the Tariff petition filed by DVC as per provisions of the Tariff Regulation framed by this Commission under the Electricity Act 2003.*

- 4.2.2 The orders passed can never have a retrospective effect under any circumstances as the same would vitiate the very objective of the Act and the Tariff as reported in (2021) SCC Online APTEL-2 at para 32 in Damodar Valley Corporation Vs. Jharkhand State Electricity Regulatory Commission (through its secretary and ors.).



- 4.2.3 It is pertinent to note that section 64 read with section 62 of the Act relates to determination of Tariff and the same is to be made only after considering all suggestions and objections to receive from the public.

*View of this Commission:*

*The tariff order dated 05.05.2022 and 17.06.2022 were issued after inviting suggestions/objections/comments from stakeholders through publishing Gist in newspapers as per Tariff Regulations, 2011, as amended. The suggestions/objections/comments received from stakeholders within due time have been dealt with in the above mentioned Tariff orders of DVC.*

*The Hon'ble Supreme Court of India has issued an order on 15/05/2023 in Civil Appeal nos. 3164-3171 of 2022, wherein this Commission is directed to consider the issue relating to truing up charges pending before it without being influenced by any of the proceedings pending before the Appellate Tribunal for Electricity (in short "APTEL") or any other Forum or order(s) passed by the APTEL or any other Forum.*

*Therefore, the comments of DPPL that the suggestions and objections received during determination of Tariff for the fifth control period (covering the year 2017-18) and sixth control period (covering the years 2018-19 and 2019-20) for which tariff orders were issued on 05.05.2022 and 17.06.2022 respectively shall also be considered during truing up (APR) orders for the respective years is not tenable. However, the gist of the APR petitions for the years 2017-18, 2018-19 and 2019-20 were published inviting suggestions and objections from the stake holders. The suggestions and objections as received within the due time have been dealt with in Chapter-3 of this order.*





- 4.2.4 Tariff for multiple control periods were determined without following the appropriate methodology and by seeking to give retrospective effect to the said order.
- 4.2.5 The imposition of interest through the order is illegal in the instant facts and circumstances with reference to the judgment in the case of Madhya Pradesh Power Generation Company Vs. Madhya Pradesh State Electricity Regulatory Commission and Ors. (Appeal No. 24 of 2010 before Appellate Tribunal for Electricity dated April 21, 2011).
- 4.2.6 In the aforesaid facts and circumstances the impugned order has been passed without following the due process of law. DPPL also adopts the submissions made by the other petitioners in the present batch of cases which share similar issues. The orders impugned are required to be set aside by this Commission.

*View of this Commission:*

*The Hon'ble Supreme Court of India in Order dated 23.11.2022 in Civil Appeals No. 8091 – 8098 of 2022, directed to pay the full tariff at the rate determined by the West Bengal Electricity Regulatory Commission (WBERC) starting from the date the WBERC had passed the impugned orders i.e., from 05.05.2022 and 17.06.2022, during the pendency of the appeal before the Tribunal. Therefore, it does not arise to set aside the tariff orders dated 05.05.2022 and 17.06.2022 of this Commission. However, the Hon'ble Supreme Court of India has issued an order on 15/05/2023 in Civil Appeal nos. 3164-3171 of 2022, wherein this Commission is directed to consider the issue relating to truing up charges pending before it without being influenced by any of the proceedings pending before the Appellate Tribunal for Electricity (in short "APTEL") or any other Forum or order(s) passed by the APTEL or any other Forum. Hence truing up exercise is being undertaken in this order.*

- 4.3 Damodar Valley Power Consumers' Association (DVPCA)



- 4.3.1 DVPCA has prayed to consider the common written submissions on the APR petitions of DVC for the years 2017 – 18, 2018 – 19 and 2019 – 20 in addition to the Statement of Objections already filed by the stakeholder in connection with the APR petitions of DVC for the years 2017 – 18, 2018 – 19 and 2019 – 20. The additional submissions of DVPCA are as follows:

**Excessive Annual Fixed Charges in respect of T&D**

- 4.3.2 As per the regulation 33 (2)(c) and 38 of the CERC (Terms and Conditions of Tariff) Regulations, 2014, the Normative Availability should have been 98.5% instead of 98% considered by DVC. The AFC of the T&D System ought to have been prorated to the actual supply made by DVC to its firm consumers since T&D System of DVC is utilised by different entities.

*View of this Commission:*

*This Commission has noted the issue and dealt with in subsequent paragraph.*

**Contribution to Pension & Gratuity Fund (P&G)**

- 4.3.3 In FY 2006 – 09, DVC was allowed contribution to P&G Fund as such fund was being created for the first time by DVC but in the subsequent tariff periods, P&G fund contribution has not been allowed by CERC.

*View of this Commission:*

*This Commission has noted the issue and dealt with in subsequent paragraph.*

**Sinking Fund Contribution**

- 4.3.4 In the APR order dated 31.5.2021 passed by this Commission for FY 2009-14, it was held that the contribution to P&G Fund and Sinking Fund has been allowed by CERC as part of AFC and the same shall be allowed to DVC on the basis of





Actual Plant Availability Factor in accordance with Regulation 21 of CERC Tariff Regulations, 2009. The Hon'ble Tribunal vide judgment dated 23.3.2016 in Appeal No. 255/ 2014 has upheld similar treatment by Jharkhand State Electricity Regulatory Commission (JSERC) in APR order dated 4.9.2014.

- 4.3.5 This Commission may kindly reduce the depreciation on assets funded through Bonds from the AFC approved by CERC since DVC's loan repayment (Bond redemption) is being ensured through Sinking Fund contribution.

*View of this Commission:*

*This Commission has considered AFC approved by CERC and availability factor thereon without any redetermination of the AFC.*

**Excessive carrying cost (2017 – 18)**

- 4.3.6 DVC has erroneously claimed carrying cost on the entire quantum of AFC approved by CERC, without factoring in the recoverable AFC as per Actual Availability achieved by DVC during the relevant period.

*View of this Commission:*

*This Commission has considered availability factor while passing on the interest on differential AFC.*

**Non Tariff Income (NTI)**

- 4.3.7 There is no justification for DVC to consider only Late Payment Surcharge as NTI which is contrary to the WBERC Tariff Regulations, 2011, and discriminatory against DVC's consumers.

*View of this Commission:*

*This Commission has noted the issue and dealt with in subsequent paragraph.*



### **Sale to WBSEDCL and IPCL**

- 4.3.8 Any short-payment by WBSEDCL & IPCL for whatever reason, including non-determination of their tariff by this Commission, cannot be saddled on to DVC's firm consumers in the State of West Bengal in accordance with Regulation 2.1.10 of the WBERC Tariff Regulations, 2011.

*View of this Commission:*

*This Commission has noted the issue and dealt with in subsequent paragraph.*

### **Interest on Working Capital**

- 4.3.9 Normative working capital requirement of DVC may be assessed @ 10% of cost and charges specified under Regulation 5.6.5.1 since an enabling framework for claiming Monthly Fuel Cost Adjustment or Monthly Variable Cost Adjustment has been available to DVC under the WBERC Tariff Regulations, 2011.

*View of this Commission:*

*This Commission has noted the issue and dealt with in subsequent paragraph 5.7 of this order.*

### **T&D Loss**

- 4.3.10 It is submitted that DVC's claim of T&D Loss of 2.82% is untenable as the tariff regulations prescribed a norm of 2.2%.

*View of this Commission:*

*This Commission has noted the issue and dealt with in subsequent paragraph.*

### **Consumption of power in own premises**





- 4.3.11 This Commission may disallow the quantum of energy consumed by DVC in its own premises since DVC has not complied with the directions in para 5.3.4 of the Tariff Orders dated 5.5.2022 and 17.6.2022 to give details with proper justification evidencing consumption at their own premises in their APR application.

*View of this Commission:*

*This Commission has noted the issue and dealt with in subsequent paragraph.*

#### **Bad Debt Written Off**

- 4.3.12 With respect to bad debts, Regulation 5.10.1 of WBERC Tariff Regulations, 2011 prescribes a ceiling of 0.5% of annual sale gross value of power at the end of the current year.

*View of this Commission:*

*The issue is decided in paragraph 5.19.3 of APR order for the year 2017 – 18 dated 18.09.2023.*

#### **Other inadmissible claims**

- 4.3.13 It is submitted that DVC's claim of interest on Temporary Financial Accommodation and AMC charge for communication scheme etc. are not tenable as the same are not provided under the WBERC Tariff Regulations, 2011.

*View of this Commission:*

*Temporary Financial Accommodation is dealt in para 5.14.3 and the view of this Commission is recorded in para 4.4.6 regarding AMC charge for communication scheme.*

#### **4.4 Damodar Valley Corporation (DVC)**



DVC has submitted their written notes and the issues are as follows:

**Non Tariff Income (NTI)**

4.4.1 This Commission and Jharkhand State Electricity Regulatory Commission ('JSERC') have considered only late payment surcharge as non-tariff income of DVC in previous orders. The Hon'ble Tribunal passed an order on 29.10.2018 in the Appeal No. 206 of 2015 upholding the decision of this Commission on the issue of non-tariff income.

4.4.2 It is impossible for DVC with consumer base in the range of 100 to 200 to generate such a high value of income on account of meter rental, other apparatus hired out charges, Sale and Repair of Lamps, etc. as in the case of WBSEDCL and CESC with consumer base in the range of millions.

*View of this Commission:*

*The issue is dealt with in para 5.17 of this order.*

**Retail Tariff for WBSEDCL and IPCL**

4.4.3 It is submitted that power to WBSEDCL and IPCL in Radial Mode have been considered in retail consumer mode till the orders dated 01.03.2019 of this Commission which are challenged by DVC before APTEL.

4.4.4 The treatment in the order dated 05.05.2022 for the FY 2017-18 and in the order dated 17.06.2022 for the FY 2018-19 and 2019-20, has resolved the mismatch in consideration of revenue requirements effective from 01.04.2017.

*View of this Commission:*

*The issue is dealt with in para 6.3.2 of this order.*

**Contribution to Pension & Gratuity Fund (P&G) and Sinking Fund linked with Availability Factor**





- 4.4.5 The expenditure towards Pension and Gratuity and Sinking Fund have been allowed to DVC by the Central Commission as a special case. The linking the contribution towards Pension and Gratuity Fund and Sinking Fund to availability factor, is contrary to the Rule 8 of the Electricity Rules, 2005 which provides that the cost and expenditure determined by the Central Commission shall be the input cost and the State Commission shall not vary or modify the same.

*View of this Commission:*

*The issue is dealt with in para 5.5.12 of this order.*

#### **AMC Charge for Communication Schemes under the ULDC Scheme**

- 4.4.6 AMC Charges are paid by DVC to different vendors for the communication scheme set up under the ULDC scheme in Eastern region for the purpose of load dispatch and management as per Order dated 14.12.2017 passed in petition no. 232 / TT / 2016 by the Central Commission. This Commission may be pleased to allow the cyber security expenses claimed by DVC for its distribution business in light of the various directions given by Ministry of Power to prevent cyber incidents.

*View of this Commission:*

*The issue of AMC for ULDC scheme and expense for cyber security are decided in para 5.15.4 and para 5.16 of this order respectively.*

#### **Adjustment of Revenue Gap/Surplus for 2006 – 09 and 2009 – 14**

- 4.4.7 It is submitted that in the Appeals filed by DVPCA against the tariff orders passed by this Commission dated 31.05.2021 and 19.07.2021, pending before the Hon'ble Tribunal, there is no directions or stay by the Hon'ble Tribunal regarding the Revenue Gap as determined by this Commission in the above tariff orders of DVC and therefore the request of DVPCA to disallow the adjustment of Revenue



Gap and carrying cost amounting to Rs 408.31 crores on the basis of the tariff orders dated 31.05.2021 and 19.07.2021 is without any merit.

*View of this Commission:*

*As per Order dated 15/05/2023 of Hon'ble Supreme Court of India in Civil Appeal nos. 3164-3171 of 2022, this Commission has considered the issue relating to truing up charges pending before it and determined the Revenue Gap/Surplus in para 6.5 of this order and adjustment of Revenue Gap/Surplus is decided in para 6.6 of the instant order.*

#### **Sharing of transmission cost**

- 4.4.8 In terms of the directive of CERC in para 128 of tariff order dated 28.02.2022 for Non ISTS line carrying ISTS power of DVC, AFC of the above assets of T&D network of DVC is being recovered from the CTU and has not been included in the ARR of Distribution Activity. Further, in line with the directives of Central Commission the Tariff Orders dated 02.03.2022 and 10.06.2022, apart from the 4 (four) assets of Non-ISTS line carrying ISTS power, the other assets of DVC's Transmission and Distribution network are dedicated for the firm consumers.

*View of this Commission:*

*The issue is dealt with in para 5.10 of this order.*

#### **Sharing gain and losses between licensee and the consumers**

- 4.4.9 DVC in the APR petition has only claimed the cost of such portion of energy which is only utilised in the distribution business activity. Similarly, no income has been derived from the Auxiliary services by utilizing the assets of distribution activity. So, the question of gain sharing also does not arise.

*View of this Commission:*





*This Commission has not considered the energy for sale to others and cost thereof in the input cost calculation for distribution activity for consumers and licensee in radial mode in West Bengal part of DVC command area. Thus, sharing of gain from such activities with consumers does not arise.*

#### **Consumption in own premises**

- 4.4.10 DVC has already submitted the details regarding the Power Consumed in its own premises in the additional information submitted on 16.02.2023.

#### *View of this Commission:*

In response to the communication of this Commission dated 16.02.2023, DVC in its reply dated 02.03.2023 through affidavit has submitted the following:

- (i) DVC's Transmission and Distribution network are inseparable in nature without explicit demarcation between the Transmission and Distribution Network.
- (ii) In some cases, consumers had been given supply directly from the sub-stations of the power plants of DVC. Therefore, a part of the sub stations of the Power Plants utilised in providing supply to consumers also becomes an integral part of the Distribution Network of DVC.
- (iii) Accordingly, the Transmission and Distribution network of DVC was adjudged by the Hon'ble APTEL as unified interstate T&D network vide its order dated 23.11.2007 and upheld by Hon'ble Supreme Court vide its order dated 23.07.2018.
- (iv) In view of the above, details of electricity consumption at different field formations of DVC as considered under the head of "Units utilised in own premises including construction power" under SI No 21 of Form 1.7 is submitted with auditor's certificate.



*This Commission based on the submission made has considered 107.00 MU as submitted in Form 1.7 as 'Units utilised in own premises including construction power' in para 5.3.2 of Chapter – 5.*

#### **Transmission and distribution losses**

- 4.4.11 DVC would crave reference to the submissions made in the APR petitions regarding the issues of transmission and distribution losses, temporary financial accommodation and bad debt in response to the submissions of DVPCA.

*View of this Commission:*

*The issue is decided in para 5.4.4 of Chapter – 5.*

#### **True up orders for the period 2014-19 by CERC**

- 4.4.12 Further, the Central Commission has been passing true up orders for the period 2014-19 and tariff orders for the period 2019-24 for DVC's generating stations.

*View of this Commission:*

*This Commission has considered all the Tariff orders for 2019 – 24 of CERC issued till 30.06.2023 as stated in para 5.5.3 of Chapter - 5.*



**CHAPTER – 5****OWN GENERATION AND T&D COST AND POWER PURCHASE COST**

5.1 The tariff orders of own generating stations and T&D network of DVC passed by CERC for the period 2019 – 24 and/or 2014 – 19 period, as the case may be, are considered for arriving at the cost of DVC's own generating stations and T&D network for this period for determining the input cost at the retail end of the distribution segment in West Bengal command area of DVC.

**5.2 Energy sales by DVC and energy balance:**

DVC is a distribution licensee having own generating stations. A substantial part of its energy requirement is met out of its own generation and the balance is met by purchase from other agencies.

**5.3 Energy sales**

5.3.1 The following table depicts the sales (MU) as made by the petitioner for the command area of DVC in West Bengal for the year 2019 – 20 vis-à-vis total sale in DVC command area. This Commission approves the actual energy sales as submitted by the Petitioner for the year 2019 – 20 based on the data available in the Annual Report of DVC for 2019 – 20.

**Table – 1: Sales for the year 2019 – 20 in the command area of DVC in West Bengal vis-à-vis total sale in DVC command area**

(MU)

Sl. No.	Particulars	19 - 20
1	Sale to consumers in WB other than Licensee	7985.20
2	Sale to Licensee - IPCL in radial mode	82.16
3	Sale to Licensee - WBSEDCL in radial mode	545.81
<b>4</b>	<b>Total Annual Sale in WB area [1+2+3]</b>	<b>8613.17</b>
5	Energy sales by DVC in Jharkhand area	6996.55
<b>6</b>	<b>Total annual sale of DVC in their command area in the State of West Bengal and Jharkhand [4+5]</b>	<b>15609.72</b>



Sl. No.	Particulars	19 - 20
7	Share of sale in West Bengal against the total consumer sale of DVC in their command area (%) [4 / 6]	55.178

5.3.2 In response to the communication of this Commission dated 16.02.2023 on discrepancy between 'Units wheeled' in Form 1.7, 1.9 and 1.9(d) and 'Units wheeled' in Table-10, DVC has revised the Form 1.7, 1.9 and 1.9(d) vide letter dated 02.03.2023 with correct 'Units wheeled' at 957.83 MU. Total energy utilization in West Bengal as admitted by this Commission is as follows:

**Table – 2: Total energy utilization in West Bengal as admitted by this Commission**

(MU)

Sl. No	Particulars	Unit	Admitted
1	Energy sale in West Bengal area	MU	8613.17
2	Energy sale within DVC Area in Jharkhand and West Bengal	MU	15609.72
3	Energy Wheeled	MU	957.83
4	Units utilized in own premises including Construction Power	MU	107.00
5	Overall Utilization (2+3+4)	MU	16674.55
6	Proportionate utilization in West Bengal [(5) x (7)]	MU	9200.68
7	Share of sale in West Bengal against the total consumer sale of DVC in their command area	%	55.178

#### 5.4 Sources of energy

5.4.1 The petitioner has submitted that the total supply of energy of the petitioner to their command areas in West Bengal and Jharkhand and to other distribution licensees are met from the resources of power from its own generating stations including both Thermal and Hydel Power Stations and through purchase of power from central sector generating stations (CSGS) i.e. NTPC, NHPC and hydel power from PTC and Maithon Power Limited (MPL) through Inter State Transmission. DVC also procures power from Renewable Energy (RE) Sources and from power exchanges during exigencies.



**5.4.2 Generation of Power from own power stations**

5.4.2.1 The quantum of ex-bus energy in MU, as submitted by the petitioner during the period and admitted by this Commission, is summarized below:

**Table – 3: Ex-bus Generation from own generating stations in 2019 – 20**

Sl. No	Name of the generating Station	Ex- bus Energy (MU)
1	BTPS 'B'	73.50
2	DTPS U# 4	372.86
3	MTPS U#1 to 3	2460.69
4	MTPS U# 4	924.77
5	HYDEL	201.24
6	MTPS U# 5 & 6	3126.47
7	MTPS U# 7 & 8	4990.67
8	CTPS U# 7 & 8	3089.10
9	DSTPS U # 1 & 2	5964.86
10	KTPS U# 1 & 2	6096.79
11	BTPS 'A'	2532.44
12	RTPS U # 1&2	4718.65
	<b>TOTAL</b>	<b>34552.04</b>

5.4.2.2 The net sent out energy in MU available for supply to the consumers in command area in West Bengal in 2019 – 20 has been considered by this Commission as follows:

**Table – 4: Admitted share of net generation from own generating stations for supply in command area in West Bengal for FY 2019 – 20**

(MU)

Sl. No.	Name of the generating station	Ex- bus Energy	Share of Energy for sale to consumers of DVC	Percentage share of generation for consumers	Share for sale to consumers in West Bengal	Share of Energy for sale to consumers in West Bengal
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# Order on APR of DVC for the year 2019 – 20

		(MU)	(MU)	(%)	(%)	(MU)
[1]	[2]	[3]	[4]	[5]=[4]/[3]	[6]	[(7) = (4)x(6)/100]
1	BTPS 'B'	73.50	73.50	100.00%	55.178	40.56
2	DTPS U# 4	372.86	372.86	100.00%	55.178	205.74
3	MTPS U#1 to 3	2460.69	2460.69	100.00%	55.178	1357.76
4	MTPS U# 4	924.77	924.77	100.00%	55.178	510.27
5	HYDEL	201.24	201.24	100.00%	55.178	111.04
6	MTPS U# 5 & 6	3126.47	699.63	22.38%	55.178	386.04
7	MTPS U# 7 & 8	4990.67	1767.92	35.42%	55.178	975.50
8	CTPS U# 7 & 8	3089.10	18.69	0.61%	55.178	10.31
9	DSTPS U # 1 & 2	5964.86	4216.32	70.69%	55.178	2326.48
10	KTPS U# 1 & 2	6096.79	192.07	3.15%	55.178	105.98
11	BTPS 'A'	2532.44	1393.70	55.03%	55.178	769.02
12	RTPS U # 1&2	4718.65	1732.35	36.71%	55.178	955.88
	<b>TOTAL</b>	<b>34552.04</b>	<b>14053.74</b>	<b>40.67%</b>		<b>7754.58</b>

## 5.4.3 Power Purchase from CSGS and other sources including renewable energy

5.4.3.1 After meeting the energy requirement as earmarked above from own generating stations of DVC for supply to consumers in the West Bengal command area, the balance energy is catered through the power purchase from the CSGS and other sources including renewable energy (RE) in 2019 – 20.

5.4.3.2 The purchase quantum of energy for sale in DVC command area as considered by this Commission during the period is tabulated below:

**Table – 5: The purchase quantum of energy as admitted by this Commission (MU)**

Agency	Purchased Energy	CTU Grid Loss	Net Purchase
<b>NHPC</b>			
Rangit	34.57	0.49	34.08
Teesta	236.48	4.13	232.35
<b>NTPC</b>			
Talcher	4.47	0.07	4.40





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KBUNL	72.82	0.95	71.87
NTPC VVNL Solar	32.88	1.63	31.25
NTPC (Talcher, Unchhar) Solar	28.77	0.00	28.77
<b>PTC power from Bhutan</b>			
Chukha (PTC)	173.03	2.43	170.60
Kurichu (PTC)	39.44	0.53	38.91
Tala (PTC)	149.38	2.04	147.34
MPL	963.14	12.97	950.17
Power Exchange (IEX, PXIL)	324.49	0.71	323.78
Total	<b>2059.47</b>	<b>25.95</b>	<b>2033.52</b>
Percentage of share for sale in West Bengal			55.178
Share for sale in West Bengal			<b>1122.06</b>

#### 5.4.4 Distribution Loss

The petitioner has claimed T&D loss to the tune of 2.66% revised to 2.64% vide letter dated 02.03.2023 in response to the communication of this Commission dated 16.02.2023, for the year 2019 – 20 and has prayed to allow actual composite T&D loss in place of only the Distribution loss as detailed in Chapter-2 of this order.

In terms of para D of Schedule – 9A of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2011, as amended from time to time, 2.2% is the distribution loss of DVC as per the norms specified for the respective year against the proportionate utilization of energy by the petitioner in their command area in West Bengal.

In terms of para E of Schedule – 9A of the Tariff Regulations, the norms of transmission loss in the intra-state transmission system of DVC will be laid down by the Commission in due course on conclusion of different legal proceedings.

APTEL, in the judgment and order dated 23rd November, 2007, has concluded on the status of transmission systems of DVC and regulatory power for



determination of tariff of the same. The Appellate Tribunal for Electricity in the said order has concluded that all transmission systems of DVC be considered as unified deemed inter-state transmission system, insofar as the determination of tariff is concerned and as such regulatory power for the same be exercised by the Central Commission. Hon'ble Supreme Court of India vide order dated 23.07.2018, in the bunch of cases being no 971-973 of 2008, 4504 – 4508 of 2008 etc. has affirmed the judgment and order dated 23rd November, 2007.

Therefore, subsequent to the order dated 23.07.2018 of the apex court, different legal proceedings on the status of transmission systems of DVC are concluded and this Commission finds it prudent to allow transmission loss to DVC for the year 2019 – 20 as per provision in para E of Schedule – 9A of the Tariff Regulations.

However, due to composite nature of the transmission and distribution (T&D) system of DVC, this Commission considers composite T&D loss in the instant order. This Commission while framing the loss trajectory at 2.75% during the FY 23 – 24, FY 24 – 25 and FY 25 – 26 respectively, has considered the actual composite T&D loss of DVC network of previous years as recorded in Statement of Reasons (SOR) dated 13.03.2023 published with the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Fourth Amendment) Regulations, 2023. Therefore, this Commission considers to allow composite T&D loss at 2.64% for the year 2019 – 20 as claimed by DVC.

Accordingly, the composite transmission and distribution (T&D) loss, as admitted by this Commission, is shown in the following table.

**Table – 6: Transmission & Distribution Loss**

Particulars	Unit	Claimed	Admitted
Proportionate utilization in West Bengal [from table in para 5.3.2]	MU	9200.72	9200.68
T & D Loss (%) for West Bengal	%	2.64	2.64





Order on APR of DVC for the year 2019 – 20

Particulars	Unit	Claimed	Admitted
T & D Loss (MU) for West Bengal	MU	249.49	249.48

#### 5.4.5 Energy balance

5.4.5.1 On the basis of the analysis done in the foregoing paragraphs, this Commission admits the energy balance for supply to their command area in West Bengal for the year 2019 – 2020 in below table. For the year 2019 – 2020, proportionate own generation and proportionate purchase are less than Energy requirement for distribution business in West Bengal, hence, additional purchase of 69.19 MU through Unscheduled Interchanges (UI) is determined by deducting proportionate own generation and proportionate purchase from Energy requirement for distribution business in West Bengal.

**Table – 7(a): Energy Balance**

(MU)

Sl. No.	Particulars	Unit	Amt.
A	Sales within West Bengal	MU	8613.17
B	Sales within Jharkhand	MU	6996.55
C	Total Sales within DVC Area (A+B)	MU	15609.72
D	Energy Wheeled	MU	957.83
E	Units utilized in own premises including Construction Power	MU	107.00
F	Overall Utilization (C+D+E)	MU	16674.55
G	Proportionate utilization in West Bengal (F x S /100)	MU	9200.68
H	T & D Loss (%) for West Bengal	%	2.64
I	T & D Loss (MU) for West Bengal $[(G/(1-H\%))-G]$	MU	249.48
J	Energy Requirement for DVC for distribution business in West Bengal (G+I)	MU	9450.16
K	Total Energy receipt for Wheeling	MU	914.00
L	Proportionate Energy receipt for Wheeling for distribution business in West Bengal (K x S /100)	MU	504.33
M	Energy requirement for DVC for distribution business in West Bengal from generation and power purchase (J - L)	MU	8945.83



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Sl. No.	Particulars	Unit	Amt.
N	Proportionate Generation available for sale within West Bengal [From para 5.4.2.2]	MU	7754.58
O	Additional Requirement beyond generation (M – N)	MU	1191.25
P	Proportionate Purchase for sale in West Bengal [from para 5.4.3]	MU	1122.06
Q	Energy drawal through UI (O – P)	MU	69.19
R	Power Purchase disallowed (P – O)	MU	0.00
S	Percentage of share for sale in West Bengal (%)	%	55.178

5.4.5.2 This Commission has noted that total Energy receipt for Wheeling for entire DVC command area is 914.00 MU whereas energy wheeled is 957.83 MU. DVC has not submitted any clarification on energy wheeled in excess of energy receipt for wheeling. Therefore, this Commission finds it prudent to adjust such excess drawal for wheeling with net drawal of unscheduled interchange (UI) as follows:

**Table – 7(b): Admissible energy drawal through UI in West Bengal after adjustment of excess energy wheeled**

(MU)

Sl. No.	Particulars	Derivation	Amount
A	Energy wheeled	A	957.83
B	Energy Received for Wheeling	B	914.00
C	Energy to be wheeled with 2.64% loss	$C=B \times (1-2.64\%)$	889.87
D	Units wheeled from power purchase	$D=A-C$	67.96
E	Share of sale in West Bengal against the total consumer sale of DVC in their command area (%)	E	55.178
F	Units wheeled from power purchase for WB part	$F=D \times E\%$	37.50
G	Energy drawal through UI for WB part	G	69.19
H	Admissible Energy drawal through UI for consumers in WB part	$H=G-F$	<b>31.69</b>

5.4.5.3 DVC will submit all details of energy wheeled, losses for wheeling, energy received for wheeling and charges recovered with the APR petition for the year 2020 – 21 onwards along with auditor's certificate.

## 5.5 Cost arising from own generation





- 5.5.1 DVC being a statutory body controlled by the Central Government as envisaged under Section 79(1)(a) of the Electricity Act, 2003, the tariff for generation of electricity is being decided by the Central Electricity Regulatory Commission (in short 'CERC'). Similarly, in view of its activities in respect of transmission and distribution of power extending in multi states, the inter-state transmission and distribution being an integrated activity, DVC is again regulated by the Central Electricity Regulatory Commission and tariff for composite T & D is being determined by the Central Commission in terms of Section 79(1)(c) and (d) of the Electricity Act, 2003. In regard to retail sale and supply of electricity, however, DVC is governed by the provisions of Section 62 in conjunction with Section 86(1) of the Electricity Act, 2003.
- 5.5.2 Accordingly, the generation and transmission tariff of DVC, as determined by the Central Commission, is taken as an input cost based on which the annual performance review (APR) has been considered.
- 5.5.3 This Commission finds it prudent to consider the input cost as per the Tariff orders for the period 2019 – 20 to 2023 – 24 issued by CERC upto 30.06.2023 for finalization of APR for the year 2019 – 20. In respect of BTPS A power stations of DVC for which Tariff order has not been issued by CERC till 30.06.2023, fixed costs as per Tariff order for 2018 – 19 is considered. Therefore, this Commission considers Tariff Orders for the period 2019 – 20 to 2023 – 24 in respect of all generating stations except BTPS A in determining proportionate fixed cost of the respective generating stations towards allocation to consumers and licensees in radial mode in West Bengal part. Tariff orders issued by CERC for the period for the period 2019 – 20 to 2023 – 24 in respect of integrated T&D system of DVC have been considered for determination of fixed cost of T&D system.
- 5.5.4 However, after issuance of True up order by CERC in respect of own generating stations and T&D network, DVC shall compute the adjustment amount, if any,



based on respective trueing up orders and submit the same along with the subsequent APR petition.

- 5.5.5 Applicable fixed cost of the given stations in the present APR petition have been considered by DVC in proportion to the installed capacity of the units still under commercial operation. The AFC approved by CERC in its Tariff orders after considering Date of commercial operation (COD) of new units as well as retirement of old units during the period has been considered by this Commission as tabulated below:

**Table – 8: Annual Fixed Charges approved by CERC in its Tariff orders**

(Rs lakh)

Sl. No	Name of the generating Station	AFC as per CERC Order
1	BTPS 'B'	12400.84
2	DTPS U# 4	13676.83
3	MTPS U#1 to 3	37537.46
4	MTPS U# 4	13220.69
5	MHS	3830.37
6	PHS	3410.11
7	THS	997.71
8	MTPS U# 5 & 6	51179.14
9	MTPS U# 7 & 8	109743.28
10	CTPS U# 7 & 8	57461.82
11	DSTPS U # 1 & 2	114038.28
12	KTPS U# 1 & 2	119379.24
13	BTPS 'A'	77188.94
14	RTPS U # 1&2	138066.07
15	T&D	45384.06

- 5.5.6 The fixed cost claimed to be recovered for the own generating stations of DVC are guided by formula laid down in regulation 30 of CERC tariff regulations, 2014, as mentioned in regulation 42(7) of CERC tariff regulations, 2019 and aforesaid tariff orders passed by CERC for the period 2019 – 24 with Plant Availability Factor achieved during the year (PAFY) and Normative Annual Plant Availability Factor (NAPF).





5.5.7 DVC has claimed contribution to Pension & Gratuity (P&G) fund and Sinking Fund in full in the petition irrespective of PAFY referring Section 40 of the DVC Act and para 23 to 26 of judgment dated 23.11.2007 of the Appellate Tribunal. The claim has been objected to by the stakeholders as summarized in Chapter – 3 and 4 of this Order.

DVC has also prayed to revise the APR based on decision of the Hon'ble Tribunal in the appeals filed by DVC against the tariff orders of CERC for different generating stations and T&D system for the period 2014-19 where the claim of DVC in respect of contribution to Pension & Gratuity fund (P&G fund), additional O&M expenditure etc. for the period FY 2014-19 has been disallowed.

5.5.8 This Commission has noted that except BTPS 'A', CERC has determined the Annual Fixed Charge (AFC) in the respective True up orders for the years 2014 – 15 to 2018 – 19 and Tariff orders for the years 2019 – 20 to 2023 – 24 for all the generating stations of DVC and T&D network. For BTPS 'A', the latest order issued by CERC is the tariff order for the period 2014 – 15 to 2018 – 19. CERC in the said tariff orders has allowed Sinking Fund as part of AFC but disallowed the claim of DVC on the share of Pension & Gratuity (P&G) fund stating that these expenses may be met through the normative O&M expenses allowed to the generating station.

5.5.9 This Commission has further observed that APTEL vide its judgement dated 23.3.2016 in Appeal No. 255 of 2014 has upheld the decision of the State Commission of Jharkhand that the contribution to Pension and Gratuity and Sinking fund has since been considered by CERC in the Annual Fixed Charges of the DVC's generating stations and as per Section 21 of the CERC Regulations, the fixed costs of the generating stations shall be computed on annual basis based on actual plant availability factor as well as normative plant availability factor.



5.5.10 This Commission also noted that DVC, in reply to objections raised by the stakeholders during hearing, through their written notes dated 10.07.2023 submitted that the issue vis-à-vis sinking fund and pension and gratuity fund is settled in view of the judgment and order dated 23.03.2016 of the Hon'ble APTEL is not true. DVC in this regard has quoted a portion of the order dated 02.01.2017 of the Hon'ble Supreme Court in Civil Appeal No. 8317 of 2016 challenging the order dated 23.03.2016 of APTEL by DVC. This Commission, however, observes that DVC has not submitted any revised order of the Jharkhand State Electricity Regulatory Commission in support of the claim.

5.5.11 This Commission in the Tariff Order dated 17.06.2022 for the year 2019 – 20, did not allow DVC to recover the entire contribution to sinking fund, where it was linked with the Plant Availability Factor achieved during the year (PAFY) against claim of recovery in full without factoring the availability of the Generating stations.

5.5.12 This Commission has noted that the CERC in its True-up orders for the period 2014 – 15 to 2018 – 19 and tariff orders for the period 2019 – 20 to 2023 – 24 has maintained its approach in allowing contribution to sinking fund as part of AFC and disallowing the expenses claimed by DVC pertaining to Pension & Gratuity (P&G), over and above, the normative O&M expenses allowable to the generating station. As per regulation 42(7) of CERC tariff regulations, 2019 and regulation 21 and 30 of the CERC Tariff Regulations, 2014 the fixed costs of the generating stations shall be computed on annual basis based on actual plant availability factor as well as the normative plant availability factor. Hence, the claim of DVC to recover contribution to Sinking Fund as allowed by CERC in AFC in full without factoring the availability of the Generating stations is not admitted in the instant order.

5.5.13 This Commission has observed that CERC in the Tariff orders for thermal generating stations of DVC for the period 2019 – 20 to 2023 – 24, has allowed the Ash Disposal Expenses to be recovered from beneficiaries based on the





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MOEF&CC notification as a separate item not making a part of the O&M expenses and the consequent annual fixed charges being determined in the said Tariff orders under the 2019 Tariff Regulations. Accordingly, apart from AFC, this Commission considers Ash Disposal Expenses approved by CERC beyond O&M expenses and AFC to be separately recoverable by DVC as per the respective Tariff orders of the Central Commission in respect of thermal generating stations of DVC as tabulated below:

**Table – 9: Ash Disposal Expenses approved in CERC True up orders**

(Rs lakh)

Name of the generating Station	Ash Disposal Expense
BTPS 'B'	78.80
DTPS U# 4	271.84
MTPS U#1 to 3	1086.64
MTPS U# 4	353.44
HYDEL	
MTPS U# 5 & 6	1109.07
MTPS U# 7 & 8	2083.40
CTPS U# 7 & 8	1391.07
DSTPS U # 1 & 2	113.76
KTPS U# 1 & 2	992.18
BTPS 'A'	
RTPS U # 1&2	0.00

5.5.14 This Commission in the instant order has considered the AFC as determined by CERC for the respective generating stations as input cost. Accordingly, this Commission allows the recovery of fixed cost against each generating station based on the actual yearly Plant Availability Factor (PAFY) of each generating station against normative PAF (NAPF) as per regulation 42(7), 49(A) and 50(C)(4) of CERC tariff regulations, 2019 and regulation 21 and 30 of the CERC Tariff Regulations, 2014, and Tariff orders. The admitted fixed charge of own generation for the year 2019 – 20 for sale to firm consumers and other licensee



in radial mode in West Bengal and Jharkhand command area of DVC (Col-H in table below) is as follows:

**Table – 10: Fixed charges of own generating stations of DVC for sale to consumers including other licensees for the year 2019 – 20**

Name of the generating Station	Normative PAF	Actual PAFY	AFC approved by CERC	Recoverable Fixed Charge as per CERC formula	Ash Disposal Expense	Share of Firm Consumer	Recoverable AFC and Ash expense for consumers of DVC
	(%)	(%)	(Rs Lakh)	(Rs Lakh)	(Rs Lakh)	(%)	(Rs Lakh)
A	B	C	D	E	F	G	H=(E+F) x G
BTPS 'B'	75	23.06	12400.84	3812.84	78.80	100.00%	3891.64
DTPS U# 4	74	55.66	13676.83	10287.19	271.84	100.00%	10559.03
MTPS U#1 to 3	85	83.33	37537.46	36799.96	1086.64	100.00%	37886.60
MTPS U# 4	85	88.61	13220.69	13220.69	353.44	100.00%	13574.13
HYDEL	80	80.00	8238.19	8238.19		100.00%	8238.19
MTPS U# 5 & 6	85	90.50	51179.14	51179.14	1109.07	22.38%	11702.10
MTPS U# 7 & 8	85	75.34	109743.28	97271.28	2083.40	35.42%	35191.43
CTPS U# 7 & 8	85	87.99	57461.82	57461.82	1391.07	0.61%	359.00
DSTPS U # 1 & 2	85	88.93	114038.28	114038.28	113.76	70.69%	80694.08
KTPS U# 1 & 2	85	90.03	119379.24	119379.24	992.18	3.15%	3791.70
BTPS 'A'	85	75.70	77188.94	68743.56		55.03%	37829.58
RTPS U # 1&2	85	69.88	138066.07	113506.55	0.00	36.71%	41668.25
<b>TOTAL</b>							<b>285385.73</b>

Note:  $E = \text{Min} (D, D \times C / B)$

5.5.15 DVC has submitted the station wise monthly energy charge rate (ECR) for the year 2019 – 2020 for their generating stations based on the actual fuel cost including the primary fuel (coal) and secondary fuel (oil) and the formula prescribed in the Regulation 43(1) and 43(2) of the Tariff Regulation, 2019 of CERC and the normative parameters set out in the regulation. In this respect, a statement showing the station wise monthly ECR duly certified by a chartered accountant firm has been submitted with the petition. DVC has further submitted Annual weightage average Energy Charge Rate (ECR) for each thermal generating stations duly certified by an Auditor vide letter dated 02.03.2023 with





affidavit in response to the communication of this Commission dated 16.02.2023.

5.5.16 This Commission admits the ECR and cost thereof for firm power from generating stations of DVC for the year 2019 – 20. The admitted energy charge of own generation for sale to firm consumers and other licensee in radial mode in West Bengal and Jharkhand command area of DVC is as follows:

**Table – 11: Energy charges of own generating stations of DVC for sale to consumers including other licensees for the year 2019 – 20**

Name of the generating Station	Share of Energy for sale to consumers of DVC	Energy Charge Rate	Energy Charge
	(MU)	(P/kwh)	Rs Lakh
A	B	C	D=B x C
BTPS 'B'	73.50	256.25	1883.44
DTPS U# 4	372.86	376.56	14040.42
MTPS U#1 to 3	2460.69	327.53	80594.98
MTPS U# 4	924.77	316.95	29310.59
HYDEL	201.24	0.00	0.00
MTPS U# 5 & 6	699.63	302.19	21142.12
MTPS U# 7 & 8	1767.92	283.34	50092.25
CTPS U# 7 & 8	18.69	234.39	438.07
DSTPS U # 1 & 2	4216.32	287.97	121417.37
KTPS U# 1 & 2	192.07	264.73	5084.67
BTPS 'A'	1393.70	218.79	30492.76
RTPS U # 1&2	1732.35	295.23	51144.17
<b>Total</b>			<b>405640.84</b>

5.5.17 The station wise fixed charge, energy charge of different power stations of DVC in 2019 – 20 on the basis of availability and percentage utilization by the consumers and other licensee in radial mode in command area of West Bengal, calculated on the basis of sales ratio in West Bengal to the total sales of DVC in



their command area in West Bengal and Jharkhand as shown in preceding paragraphs have been summarized below:

**Table – 12: Cost of generation for share to consumers in West Bengal**  
(Rs lakh)

Year	Energy Charge for sale to consumers of DVC	AFC for sale to consumers of DVC	Total Cost of Generation	Share of Energy for sale to consumers in West Bengal (%)	Cost of generation for share to consumers in West Bengal
[1]	[2]	[3]	[4] = [2] + [3]	[5]	[6] = [4] x [5]
2019 - 20	405640.84	285385.73	691026.57	55.178	<b>381294.64</b>

5.5.18 Thus, the claim of DVC vis-à-vis admission by this Commission of cost of own generation for sale to consumers and other licensee in radial mode in West Bengal command area of DVC is as follows:

<b>Table – 13: Cost of own generation for sale to consumers and other licensee in radial mode in West Bengal command area of DVC</b>	
Claim (Rs lakh)	Admitted (Rs lakh)
374091.07	<b>381294.64</b>
<p>Note: Since DVC had considered two tariff orders of CERC for 2019 – 24 period available at the time of filing the petition and this Commission has all tariff orders except BTPS 'A' issued by CERC for 2019 – 24 period till 30.06.2023 and AFC in Tariff orders for 2019 – 20 are more than Tariff orders for 2018 – 19 in most orders, the admitted own generation cost is more than claimed by DVC.</p>	

5.5.19 This Commission admits the balance energy requirement for power purchase from other agencies considering normative distribution loss and cost thereof in subsequent paragraphs.

## 5.6 Purchase cost from CSGS and other sources including Renewable Energy for sale to consumers in the command area in West Bengal





- 5.6.1 This Commission has considered the power purchase costs from CSGS, PTC, MPL, Power Exchange, Renewable Energy (RE) Sources, Renewable Energy Certificate (REC) etc as well as transmission and other incidental charges related to power purchase viz Transmission charge to CTU for availing of the transmission corridor, POSOCO charges, ULDC charge, RLDC/SLDC charge, and contribution to ERPC fund etc. for the year 2019 – 20 for DVC command area in West Bengal and Jharkhand as per submission of the petitioner.
- 5.6.2 The breakup of source wise power purchase costs viz fixed charge, energy charge, related incidental charges like transmission charge etc as considered by this Commission for sale to consumers of DVC in the command area in West Bengal and Jharkhand are shown in Annexure - 5A.
- 5.6.3 The Commission also considers the cost of Unscheduled Interchanges (UI) drawal during the period 2019 – 2020 at average rate during the year on the admitted quantum of UI drawal in the energy balance.
- 5.6.4 In response to the communication of this Commission dated 16.02.2023, DVC has submitted over the year amount of UI purchased and payable amount thereof, amount of UI sale and payable amount thereof vide reply dated 02.03.2023 with affidavit as follows:

**Table – 14: Break up of UI import and export submitted by DVC**

Particulars	MU	Rs lakh
UI Import and amount Payable for purchase (Rs lakh)	149.13	7179.17
UI Export and amount Receivable for sale (Rs lakh)	23.07	718.76
Net UI	126.06	6460.41

- 5.6.5 DVC has further shown that considering the weightage average energy charge rate of DVC at Rs 2.91 /kWh the Net gain from export of 23.07 MU of UI is Rs 47.04 lakh.



5.6.6 However, this Commission does not consider fuel cost in determining 'UI receivable amount over the year as below:

**Table – 15: Net UI Charge Payable by DVC for the year 2019 – 20**

Sl. No	Particulars	Amount
1	UI Payable for purchase (Rs lakh)	7179.17
2	UI Receivable for sale (Rs lakh)	718.76
3	Net UI payable (Rs lakh)	6460.41

5.6.7 The corresponding cost for admissible energy drawal through Unscheduled Interchanges (UI) in West Bengal after adjustment of excess energy wheeled, as admitted in energy balance, at Rs 1624.07 lakh as determined below is considered in Annexure – 5A:

**Table – 16: Cost for drawal through Unscheduled Interchanges (UI)**  
(Rs lakh)

Sl. No.	Particulars	Amount
A	Admissible energy drawal through UI for sale in West Bengal (MU)	31.69
B	Net UI drawal by DVC in WB and JH (MU)	126.06
C	Net UI Charge Payable by DVC in WB and JH (Rs lakh)	6460.41
D	Admissible UI Charge Payable (Rs lakh) in WB part of DVC [C x A / B]	1624.07

5.6.8 In terms of regulation 5.17.2 of the Tariff Regulations, the UI charges is admitted upto 5% of the total power purchase cost as considered in Annexure – 5A.

5.6.9 DVC has stated that the solar power and Renewable Energy Certificates (RECs) are procured for supply of power in both the state, accordingly, the cost of renewable power purchase is segregated between the two states based on the respective renewable purchase obligation (RPO). The utility has claimed Rs 13206.36 lakh in Form E(B) for cost of purchase for renewable energy including REC for West Bengal command area of DVC.

5.6.10 This Commission observes that as per Form 1.10 of the petition, cost of renewable energy (RE) purchase including costs of purchase of REC for DVC





command area in Jharkhand and West Bengal is Rs. 26823.50 lakh. This Commission finds it prudent to admit the cost of renewable energy (RE) purchase as per the RPO requirements stipulated by the respective Commissions and actual RPO compliance by the Petitioner. This Commission also admits costs of purchase of REC for West Bengal command area of DVC. Thus, this Commission admits the cost of purchase for renewable energy for West Bengal command area of DVC as claimed by the utility at Rs 13206.36 lakh for the year 2019 – 20.

- 5.6.11 The power purchase cost from CSGS, MPL, PTC, power exchanges and Renewable Sources, as admitted by this Commission for sale to consumers of DVC in the command area in West Bengal are shown in Annexure 5A. The claim of DVC vis-à-vis the admission of this Commission for power purchase cost for sale to consumers in the command area in West Bengal is summarized below:

(Rs lakh)

<b>Table – 17: Power purchase cost for sale to consumers in the command area in West Bengal</b>	
<b>Claim</b>	<b>Admitted</b>
68744.65	66803.76

## 5.7 Interest on Working Capital

- 5.7.1 DVC has claimed interest on working capital requirement on power purchase and other cost at Rs. 1686.87 lakh for the year 2019 – 20.
- 5.7.2 DVC has stated that they did not claim MVCA in 2019 – 20. Accordingly, as per the regulation 5.6.5.1 of Tariff Regulation – 2011, computation of working capital @18% is sought for by the petitioner.
- 5.7.3 In terms of regulations 5.6.5.1 of the Tariff Regulations, as amended, from time to time, working capital requirement shall be assessed on normative basis @ 18% on the base amount derived by summation of annual fixed charges and fuel and power purchase cost reduced by the amount of depreciation, deferred revenue



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expenditure, return on equity and other non cash expenditures such as, the provision for bad-debt, reserve for unforeseen exigencies, special appropriation against any withheld amount of previous year, arrear on account of adjustment due to Annual Performance Review, FPPCA, etc. It is also provided in the said regulation that where Monthly Variable Cost Adjustment (MVCA) exists the interest on working capital requirement will be 10% instead of 18%.

- 5.7.4 This Commission has introduced MVCA for all the distribution licensees with effect from April, 2011 and the first MYT order for DVC was issued on 25.05.2015. This Commission, thus, considers the working capital requirement @ 10% only.
- 5.7.5 DVC has considered rate of interest at SBI Short Term PLR at 13.45%, as on 01.04.2018 for the year 2019 – 20. The yearly Marginal Cost of Lending Rates (MCLR) of the State Bank of India as on 1st April, 2019 was 8.55%. This Commission thus has considered normative Interest on working capital at the rate of 12.05 % (8.55 % + 3.50 %) for interest calculation for the year 2019 – 20 as per regulation 5.6.5.2 of Tariff Regulations and suo-motu order of this Commission dated April 6, 2022 in Case No SM-30/21-22.
- 5.7.6 The security deposit held by DVC is Rs. 2302.51 lakh and Rs. 5361.09 lakh as on 01.04.2019 and 31.03.2020 respectively as per Table 22 of their petition. The average balance at Rs. 3831.80 lakh is considered by this Commission while determining the interest on working capital.
- 5.7.7 Thus, taking in view of the above consideration, this Commission has admitted the above interest rate on Working Capital for the command area of West Bengal:

**Table – 18: Interest on working capital admitted by this Commission for West Bengal command area**

(Rs lakh)

Sl. No	Particular	Amount
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Sl. No	Particular	Amount
1	Total Power purchase cost for WB part of DVC	66803.76
2	Interest on security deposit payable to West Bengal consumers	237.85
3	Different petition filing fees to regulators and publication expenses for West Bengal command area	250.09
4	Cost of AMC charges for ULDC scheme apportioned for West Bengal command area	0.00
5	Legal Charges for West Bengal command area	152.99
6	<b>Total [SUM (1:5)]</b>	<b>67444.69</b>
7	Rate of Working Capital Requirement (%)	10.00%
8	Working Capital Requirement in Rs lakh for West Bengal command area (6 x 7)	6744.47
9	Security Deposit held by DVC for West Bengal command area	3831.80
10	Working Capital Requirement West Bengal command area (8-9)	2912.67
11	Rate of interest (%)	12.05
12	Interest on working capital for West Bengal command area (10 x 11)	350.98

### **5.8 Interest on Security Deposit to the consumers of West Bengal**

The Petitioner has claimed interest on the Security Deposit for the consumers of West Bengal at Rs 237.85 lakh for the year 2019 – 2020 along with auditor's certificate and this Commission allows the above claim of the petitioner.

### **5.9 Different fees to CERC and WBERC and related publication expenses**

5.9.1 The petitioner has claimed regulatory petition filing fees and publication expenses along with auditor's certificate at Rs 491.70 lakh.

5.9.2 This Commission considers the different fees paid to WBERC and the publication expenses related to WBERC, as submitted by DVC, in total to the tune of Rs. 84.43 lakh for the year 2019 – 2020.



This Commission has also considered the tariff filing and annual license fees to CERC at Rs. 486.38 lakh and related publication expense at Rs. 251.72 lakh totalling to Rs. 738.10 lakh. However, as per regulation 70 of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019, such fees and charges shall be reimbursed directly by the beneficiaries in proportion of their allocation in the generating stations or by the long term customers in proportion to their share in the inter-State transmission systems. Therefore, this Commission finds it prudent to consider share of own generation for consumers of DVC before applying the sales ratio of West Bengal to the total sales of DVC in their command area in West Bengal and Jharkhand as follows:

**Table – 19: Admitted regulatory fees and publication expense**

(Rs lakh)

Sl. No.	Item	Amount
1	Tariff filing and Licensee fees for WBERC	76.69
2	Publication expenses for WBERC	7.74
3	Total fees paid to WBERC and publication expense related to WBERC (1+2)	84.43
4	Tariff filing fees to CERC & related publication expenses	738.10
5	Ex Bus Own generation (MU) [para 5.4.2.2]	34552.04
6	Ex Bus Own generation for consumers of DVC in Jharkhand and West Bengal (MU) [para 5.4.2.2]	14053.74
7	Tariff filing fees to CERC & related publication expenses for consumers of DVC [(4) x (6) / (5)]	300.22
8	Share of sale in West Bengal against the total consumer sale of DVC in their command area (%)	55.178
9	Share for above in West Bengal Area (7 x 8)	165.66
10	Total fees paid to WBERC & CERC and publication expense as admitted by this Commission (3 + 9)	<b>250.09</b>

5.9.3 In forthcoming APR petitions, DVC is directed to submit the details of station wise fees paid to CERC, related publication expenses and recovery of such fees, charges and expenses from beneficiaries outside DVC command area and other details, if any.





## 5.10 Transmission and Distribution expenses

5.10.1 CERC has determined the tariff for integrated transmission and distribution activities of DVC for the period 2019 – 2020 to 2023 – 2024 vide their Tariff orders dated 02.03.2022 and 10.06.2022 (corrigendum dated 23.07.2022) for New and Existing Transmission and Distribution (T&D) System Network respectively. DVC has claimed fixed cost for T&D network in their APR petition based on the Tariff orders of CERC and availability of the T&D network and then proportionate cost for West Bengal consumers at Rs. 25306.93 lakh.

5.10.2 DVC has not claimed any further expenditure on account of distribution systems. The admitted expenditure of CERC on account of unified transmission and distribution systems of DVC for the year 2019 – 2020 is as follows:

**Table – 20: AFC approved by CERC in Tariff orders for T&D system of DVC**  
(Rs lakh)

Particulars	Amount
AFC approved in T&D Order dated 23.07.2022 for Existing elements	42903.23
AFC approved in T&D Order dated 02.03.2022 for New elements	2480.83
<b>Total</b>	<b>45384.06</b>

5.10.3 This Commission has noted that (i) DVC has not claimed the tariff approved in CERC Order dated 28.02.2022 for 400 kV Transmission Lines carrying ISTS Power of Damodar Valley Corporation in Eastern Region (ii) CERC in para 212 of the order dated 02.03.2022 and para 215 of the order dated 10.06.2022 has directed that the charges of existing as well as new T&D System shall be included as an input cost, in the ARR and recovered from the distribution consumers on approval by WBSERC and JSERC. Relevant portion of the above mentioned para is reproduced below:

*“215. It is observed that the Petitioner has prayed for separate sharing methodology for 2014-19 and 2019-24 tariff periods. The Petitioner’s prayer for sharing of trued-up charges of 2014-19 tariff period is in line with the earlier orders dated 9.8.2019 in Petition No. 150/TT/2018 and dated 5.2.2020 in Petition No. 335/TT/2018 for 2014-19 tariff period,*



wherein **the Commission directed that the charges of existing as well as new T&D System (i.e. Non-ISTS system) shall be included as an input cost, in the ARR and recovered from the distribution consumers on approval by WBSERC and JSERC and shall not be included in the PoC charges as specified in the 2010 Sharing Regulations.**

5.10.4 This Commission considers that to arrive at the admissible amount for sale to consumers in West Bengal area on the basis of admitted utilization of energy during the respective year. This Commission has considered applicable formula in regulation 46(2) of CERC Tariff Regulations, 2019 on the total approved AFC (including Sinking fund for T&D assets) for integrated T&D system of DVC based on Normative Annual Transmission System Availability Factor (NATAF) in regulation 51 of CERC Tariff Regulations, 2019 and actual availability for the years.

5.10.5 Such admitted amount for the year 2019 – 2020 comes as follows:

**Table – 21: Admitted T&D Cost in West Bengal Command area of DVC**

(Rs lakh)

Sl. No.	Particulars	Amount
1	Normative Annual Transmission System Availability Factor (NATAF)	98.50%
2	Actual Yearly Availability (TAFY)	99.54%
3	Total Annual Transmission charge (ATC) as per CERC Tariff Orders mentioned	45384.06
4	Recoverable fixed charge as per CERC formula: $AFC \times (TAFY / NATAF)$ [#]	45863.24
5	Share of Sale in WB Command area of DVC (%)	55.178
6	T&D Cost in WB Command area of DVC (4 x 5)	25306.42
<b>Note #:</b> As per regulation 46 of CERC Tariff Regulations, 2019: a) For $TAFY \leq 98\%$ , Annual Tr. Charge = $AFC \times (TAFY/98\%)$ b) For $98\% < TAFY < 98.5\%$ , Annual Tr. Charge = $AFC$ c) For $98.5\% < TAFY \leq 99.75\%$ , Annual Tr. Charge = $AFC \times (TAFY/98.5\%)$ d) For $TAFY \geq 99.75\%$ , Annual Tr. Charge = $AFC \times (99.75\%/98.5\%)$		





#### 5.11 Interest on Differential AFC

5.11.1 DVC has claimed the interest cost as per provision in the Regulation 10 (7) of Terms and Condition of CERC Tariff Regulation, 2019. DVC has computed the interest until the date of issuance of the Tariff Order by CERC from the end of respective years at simple interest rate of the bank rate as specified in the CERC regulation as of 1<sup>st</sup> April of the respective years. The interest rate considered by DVC is 12.05 % for the year 2019 – 20 (one year MCLR rate of State Bank of India as on 01.04.2019 at 8.55% + 3.50% as per CERC Tariff Regulations, 2019). The proportionate claim for West Bengal part of DVC is Rs 1534.88 lakh (for T&D and MTPS U#4).

5.11.2 This Commission has noted that DVC in the above-mentioned claim has determined the interest on difference of AFC(s) considered by this Commission in Tariff order dated 17.06.2022 for 2019 – 20 and AFC as allowed by CERC in Tariff orders for 2019 – 20 in respect of unified T&D network and MTPS U#4 for 2019 – 20 which were only issued till submission of the instant petition. The relevant portions of regulation 10 of the CERC Tariff Regulations, 2019, referred by DVC is reproduced below:

*“(3) If the information furnished in the petition is in accordance with these regulations and is adequate for carrying out prudence check of the claims made, the Commission may consider granting interim tariff in case of new projects.*

*(4) In case of the existing projects, the generating company or the transmission licensee, as the case may be, shall continue to bill the beneficiaries or the long term customers at the capacity charges or the transmission charges respectively as approved by the Commission and applicable as on 31.3.2019 for the period starting from 1.4.2019 till approval of final capacity charges or transmission charges by the Commission in accordance with these regulations:*

*Provided that the billing for energy charges w.e.f. 1.4.2019 shall be as per the operational norms specified in these regulations.*



*(5) The Commission shall grant final tariff in case of existing and new projects, after considering the replies received from the respondents, and suggestions and objections, if any, received from the general public and any other person permitted by the Commission including the consumers or consumer associations.*

*(6) The Commission may hear the petitioner, the respondents and any other person permitted including the consumers or consumer associations while granting interim or final tariff.*

***(7) The difference between the tariff determined in accordance with clauses (3) and (5) above and clauses (4) and (5) above, shall be recovered from or refunded to, the beneficiaries or the long term customers, as the case may be, with simple interest at the rate equal to the bank rate prevailing as on 1st April of the respective year of the tariff period, in six equal monthly instalments."***

This Commission had issued the Tariff order dated 17.06.2022 for the year 2019 – 20 considering the AFC for the year 2018 – 19 as mentioned in Tariff orders of CERC for the period 2014 – 15 to 2018 – 19 for own generating stations and T&D network in absence of Tariff orders of CERC for the period 2019 – 20 to 2023 – 24.

Since the cost of own generation and integrated T&D network of DVC determined by CERC is an input cost to this Commission, interest on differential AFC is admissible by this Commission as per regulation 10(7) of CERC Tariff Regulations, 2019. This Commission has considered actual yearly Transmission Availability Factor (TAFY)/ yearly Plant Availability Factor (PAFY) while admitting interest on differential AFC based on all the tariff orders issued by CERC till 30.06.2023 as shown in Annexure – 5B for the year 2019 – 20. However, this Commission has considered the date of issue of tariff order of CERC instead of subsequent corrigendum order by CERC on the tariff order, if any, to determine the days. This Commission admits Rs 3621.35 Lakh for the year 2019 – 20 as interest on differential AFC as shown in Annexure – 5B.





5.11.3 Further, this Commission has noted that as per regulation 13(4) of CERC Tariff Regulations, 2019, after the issuance of True up orders by CERC for the period 2019 – 2024, the generating company or the transmission licensee, shall refund to or recover from, the beneficiaries or the long term customers, as the case may be, the excess or the shortfall amount along with simple interest. Relevant portion of the regulation is reproduced below:

*(4) After truing up, if the tariff already recovered exceeds or falls short of the tariff approved by the Commission under these regulations, the generating company or the transmission licensee, shall refund to or recover from, the beneficiaries or the long term customers, as the case may be, the excess or the shortfall amount along with simple interest at the rate equal to the bank rate as on 1st April of the respective years of the tariff period in six equal monthly instalments.*

#### 5.12 Rebate on sale of power

5.12.1 DVC has claimed rebate given to consumers on payment of bills in due time and also on payment made through online mode in accordance to the directive given in the tariff orders. The petitioner has stated that such payment rebate is booked in the Annual Accounts of the respective year as an expenditure item and is not included in the Revenue side, accordingly, in the instant petition the timely payment rebate booked in the Annual Accounts of each year for the consumers of DVC in the state of West Bengal is claimed with Auditor's Certificate.

5.12.2 This Commission admits the claim of Rs 6396.04 lakh for the year 2019 – 20.

#### 5.13 Legal charges

5.13.1 DVC has claimed Legal charges amounting Rs 1076.81 lakh for the year 2019 – 20 related to distribution activities and proportionate amount of Rs 594.16 lakh as per sales ratio in the State of West Bengal in accordance with Regulation 5.7.2 (ii) of the WBERC (Terms and Conditions of Tariff) Regulations, 2011. It is submitted that DVC has incurred substantial legal expenses in relation to the



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various court cases pertaining to its distribution activity in the states of Jharkhand and West Bengal. In this regard an Auditor's certificate is submitted with the petition. This Commission notes that the legal charges claimed by DVC related to distribution activities of entire DVC command area is many fold compared to such expenses in previous year at Rs 244.93 lakh. This Commission had admitted Rs. 277.27 lakh for entire DVC command area in tariff order against claim of Rs. 1006.80 lakh. Since the justification submitted by DVC in the present petition for such increase in legal charges is not found substantial, the legal charge is admitted at Rs 277.27 lakh for the entire DVC command area and Rs. 152.99 lakh is admitted for West Bengal command area of DVC in sales ratio.

**5.14 Interest on temporary financial accommodation**

5.14.1 DVC has stated that due to short payment/no payment made by the consumers of both the state i.e. West Bengal and Jharkhand, they had to resort to short term loan ('line of credit') for smooth operation of its generating stations and also for payment of power purchase bill in time to bridge the gap between the Revenue Billed and Revenue realized. This is submitted that JBVNL being the major defaulter, in the foot note of the line of credit loan of the annual accounts of the respective year, it is mentioned that such loan was availed of against outstanding amount on account of JBVNL. The petitioner has also mentioned that the entire Delayed Payment Surcharge on account of all the Firm consumers of DVC of both the state is adjusted as Non-tariff Income in the instant APR petition.

5.14.2 DVC has submitted that the cost of temporary accommodation has been claimed as per provision of regulation 5.6.5.4 of Tariff Regulations, 2011, based on the annual accounts of DVC at Rs 43589.54 lakh for the year 2019 – 20 in the common part of the ARR which is meant for both Jharkhand and West Bengal and claim for West Bengal part has been derived at Rs 24051.94 lakh by DVC in proportion to the sales ratio for the year 2019 – 20.





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5.14.3 This Commission observes that in the Annual Statement of Account of DVC for the year 2019 – 20, the 'Short Term Bank Borrowings (Line of Credit)' for the respective year is for financing overdues of Jharkhand State Electricity Boards amounting to Rs 5650 Crore. Therefore, this Commission finds it prudent not to admit any interest on temporary accommodation.

**5.15 O&M Expenses on ULDC communication system**

5.15.1 The petitioner has submitted that in terms of the tariff approved by CERC in Order dated 14.12.2017, in petition no. 232/TT/2016 filed by Power Grid Corporation of India Limited (PGCIL), the ULDC charges billed by PGCIL and booked under ULDC charges in Annual Report of DVC, excludes O&M charges related to the communication assets established by PGCIL under ULDC scheme. Since operation & maintenance of the ULDC hardware connected with the system of the utility is the responsibility of the respective utilities as per the aforesaid order, DVC entered into a contract with PGCIL for maintenance of the entire ULDC scheme established by PGCIL for system of DVC. Accordingly, PGCIL prefers separate bills to DVC for O&M charges related to the ULDC scheme which was paid from Area Load Despatch Centre (ALDC) of DVC at Maithon as booked in Annual Report under O&M expenditure head.

5.15.2 DVC has prayed before this Commission to allow the AMC charges as the said expenses form a part of the ULDC charges and uncontrollable in nature. In this regard, auditor's certificate is submitted with the petition for claim of Rs 28.29 lakh for the year 2019 – 20 for DVC command area in Jharkhand and West Bengal. The proportionate claim for West Bengal part of DVC comes to Rs. 15.61 lakh.

5.15.3 The relevant portion of the above mentioned CERC order dated 14.12.2017 in the matter of approval of transmission tariff for Main SCADA EMS System-5 assets under project – "Expansion/upgradation of SCADA/EMS System of SLDCs of Eastern Region" filed by PGCIL, is reproduced below:



*“The petitioner (PGCIL) has submitted that Annual Maintenance Contract (AMC) of SCADA/EMS systems established under ULDC Scheme for all the constituents is the responsibility of the respective SLDCs in line with the ER-ULDC project and therefore not claimed O&M charges for the same. Therefore, no O&M Expenses are allowed for the instant assets.”*

5.15.4 Since there is no specific direction by CERC for O&M expenses of SCADA/EMS system of ULDC in orders on unified T&D network of DVC, this Commission does not admit any amount to be recovered from the retail Distribution Business.

#### 5.16 **Cyber Security expenses**

5.16.1 The petitioner has stated that in compliance with the directive of the Jharkhand State Electricity Regulatory Commission (JSERC) in the tariff order of DVC dated 18.05.2018 as well as the directives received from MOP, GOI time-to-time (vide letter No.1/10/2007-IT (pt.) dated 12.04.2010, letter no. 1/6/2011/IT-Pt. VIII (238324) dated 08.08.2017 and letter no. 1/6/2011-IT (204430) dated 20.04.2018) to avoid breach of cyber security, DVC has invested in cyber security measures. Accordingly, it is prayed before this Commission to allow it to recover the actual expenditures towards investment on Cyber Security in the ARR through as certified by an Auditor.

5.16.2 This Commission has observed that no such expense has been certified by auditor. Further, this Commission maintains that expense incurred by the Petitioner towards Investment in Cyber Security is a part of the Fixed Asset of the Petitioner which is determined by CERC. Therefore, such expense is not approved to be recovered from the Distribution Business by this Commission.

#### 5.17 **Non Tariff Income**

5.17.1 DVC has considered only the Delayed Payment Surcharge (DPS) amount on account of firm consumers of DVC at Rs. 2173.70 lakh as Non-Tariff Income





(NTI) and deducted it from the gross Aggregate Revenue Requirement of DVC. The petitioner has claimed proportionate amount of DPS in sales ratio. However, detailed break-up of the DPS amount segregated between Firm consumers of Jharkhand and West Bengal duly certified by Chartered Account Firm is attached with the petition. The claim of DVC is summarized below:

**Table – 22: Non-Tariff Income claimed by DVC**

(Rs lakh)

Sl. No	Particulars	Amount
1	DPS of Bilateral Consumers	18291.31
2	DPS of Firm Consumers in Jharkhand	563.60
3	DPS of Firm Consumers in West Bengal	1610.10
4	DPS of Firm Consumers in West Bengal and Jharkhand (2 + 3)	<b>2173.70</b>
5	Share of sale in West Bengal against the total consumer sale of DVC in their command area (%)	55.18
6	DPS of Firm Consumers in West Bengal (4 x 5)	<b>1199.41</b>

5.17.2 Inferring the above, DVC has concluded that since there is no capital investment and no asset attributed to the distribution activity and there is no profit margin in the distribution tariff of DVC, only the delayed payment surcharge related to distribution activity is considered as Non-Tariff Income by the petitioner.

5.17.3 DVC has further submitted that there are no elements in tariff which are allowed by this Commission, from where other income can be generated.

The elements under 'Other income' which are not considered by DVC as non-tariff income are as follows:

- a) Dividend income
- b) Interest on Short Term deposit
- c) Interest on Non Current Investment
- d) Interest on IT refund



- e) Interest on Advance to Contractors and Supplier
- f) Interest on CLTD
- g) Interest from others
- h) Profit on Disposal of Fixed Assets
- i) Tariff Adjustment Fixed Assets
- j) Interest on Employee Loan and Advances
- k) Income from Service Charge
- l) Other Miscellaneous Income
- m) Share of Revenue Income

5.17.4 In the Tariff order dated 17.06.2022 for the year 2019 – 20, DVC was directed to submit clarification against each element of other income of power business of Audited Annual Accounts for 2019 – 20 which are excluded by them from Non-Tariff Income in the APR petition.

5.17.5 Accordingly, element wise justifications for non-qualification as non-tariff income are furnished by DVC in the petition and letter dated 02.03.2023.

5.17.6 This Commission has reviewed the submissions made by DVC and other stakeholders in Chapter 2 to Chapter 4. This Commission has considered only Late Payment Surcharge (LPS) or Delayed Payment Surcharge (DPS) as Non-Tariff Income for retail supply in West Bengal part of DVC in the instant APR order. However, admission of Late Payment Surcharge should not be correlated by DVC with interest on temporary accommodation as contended by them in respective para.

5.17.7 This Commission admits Non-Tariff Income for West Bengal part of DVC in the instant APR order at Rs 1610.10 lakh.



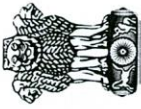


Order on APR of DVC for the year 2019 – 20

**Annexure – 5A**  
**Power Purchase Cost for the year 2019 – 20**

Agency	Gross Purchase d Energy	Net Purchase d Energy	Capacity Charge	Energy Charge	Trans. Charge	Others	Total Purchase Cost
	MU	MU	(Rs Lakh)	(Rs Lakh)	(Rs Lakh)	(Rs Lakh)	(Rs Lakh)
<b>NHPC</b>							
Rangit	34.57	34.08	675.25	650.74	331.98	56.45	1714.42
Teesta	236.48	232.35	2862.44	2749.53	2270.65	878.25	8760.87
<b>NTPC</b>							
Talcher	4.47	4.40	47.37	87.83	42.96	3.62	181.78
KBUNL	72.82	71.87	2403.86	1872.42	699.21	206.55	5182.04
NTPC VVNL Solar	32.88	31.25		3442.47	395.79	22.60	3860.86
NTPC (Talcher, Unchhar) Solar	28.77	28.77		2689.57		-0.36	2689.21
<b>PTC power from Bhutan</b>							0.00
Chukha (PTC)	173.03	170.60		4155.50	1661.43	-9.62	5807.31
Kurichu (PTC)	39.44	38.91		855.95	449.95		1305.90
Tala (PTC)	149.38	147.34		3226.55	1434.32	-0.2	4660.67
<b>MPL</b>	963.14	950.17	15709.33	25823.59	9248.08	4690.51	55471.51
<b>Power Exchange (IEX, PXIL)</b>	324.49	323.78		10212.90			10212.90
<b>REC from Exchange</b>						20273.43	20273.43
Farakka-III (Prior period adjustment)						813.10	813.10
Farakka-I (Prior period adjustment)						82.56	82.56
KHSTPS-1(Prior period adjustment)						-0.88	-0.88
KHSTPS-2(Prior period adjustment)						-0.06	-0.06
<b>TOTAL</b>	<b>2059.47</b>	<b>2033.52</b>			<b>16534.37</b>		<b>121015.62</b>
<b>TOTAL excluding RE</b>	<b>1997.82</b>	<b>1973.50</b>			<b>16138.58</b>		<b>94192.12</b>

Power Purchase Cost excluding cost of RE(Rs 26823.50 Lakh) for DVC (Rs lakh)	A	94192.12
Percentage of share for sale in West Bengal (%)	B	55.178
Power Purchase Cost excluding cost of RE for Share of sale in West Bengal (Rs Lakh)	C=A x B	51973.33
RE Cost for West Bengal part of DVC (Rs lakh)	D	13206.36
Power Purchase Cost including cost of RE for Share of sale in West Bengal (Rs Lakh)	E=C+D	65179.69
Admissible energy drawal through UI in West Bengal (MU) as per Energy Balance	F	31.69
Net UI drawal by DVC in WB and JH (MU)	G	126.06
Net UI Charge Payable by DVC in WB and JH (Rs lakh)	H	6460.41
Admissible UI Charge Payable (Rs lakh) in WB part of DVC	I=Fx(H/G)	1624.07
Admitted UI Charge Payable (Rs lakh) in WB part of DVC as per regulation 5.17.2	J=Min(5% of E and I)	1624.07
Admitted total cost of power purchase including RE for sale in West Bengal (Rs Lakh)	K=E+J	<b>66803.76</b>



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Order on APR of DVC for the year 2019 – 20

Annexure – 5B  
Interest on Differential AFC for the year 2019 – 20

Name of the generating Station	AFC of CERC considered in WBERC Tariff Order dated 17.06.22 for 19-20 (Rs lakh)	AFC in CERC Tariff Order for 2019-20 (Rs lakh)	Differential AFC Amount (Rs Lakh)	Normative TAF/PAF (%)	Actual TAF/PAF (%)	Differential AFC as per CERC formula (Rs Lakh)	Share of Sale for consumers of DVC (%)	Share of Sale in WB Command area of DVC (%)	Differential amount for consumers in WB Command area of DVC (Rs Lakh)	Date of CERC Tariff order	No. of days from 01.04.2020 to date of Tariff Order	Bank rate as on start of FY (%)	Simple Interest on differential AFC (Rs Lakh)
A	B	C	D=C-B	E	F	G	H	I	J=G x H x I	K	L	M	N=J x (L/365) x M
BTPS 'B'	9536.91	12400.84	2863.93	75	23.06	880.56	100.00%	55.178	485.88	10-07-2023	1196	12.05%	191.85
DTPS U# 4	11249.89	13676.83	2426.94	74	55.66	1825.45	100.00%	55.178	1007.25	19-05-2023	1144	12.05%	380.41
MTPS U#1 to 3	36206.46	37537.46	1331.00	85	83.33	1304.85	100.00%	55.178	719.99	17-02-2023	1053	12.05%	250.29
MTPS U# 4	11893.13	13220.69	1327.56	85	88.61	1327.56	100.00%	55.178	732.52	30-11-2022	974	12.05%	235.54
MHS	3490.11	3830.37	340.26	80	80.00	340.26	100.00%	55.178	187.75	16-02-2023	1052	12.05%	65.21
PHS	2576.61	3410.11	833.50	80	80.00	833.50	100.00%	55.178	459.91	28-02-2023	1064	12.05%	161.55
THS	985.27	997.71	12.44	80	80.00	12.44	100.00%	55.178	6.86	16-03-2023	1080	12.05%	2.45
MTPS U# 5 & 6	47377.80	51179.14	3801.34	85	90.50	3801.34	22.38%	55.178	469.42	14-03-2023	1078	12.05%	167.06
MTPS U# 7 & 8	101920.61	109743.28	7822.67	85	75.34	6933.65	35.42%	55.178	1355.12	27-04-2023	1122	12.05%	501.96
CTPS U# 7 & 8	53060.03	57461.82	4401.79	85	87.99	4401.79	0.61%	55.178	14.82	16-06-2023	1172	12.05%	5.73
DSTPS U # 1 & 2	110416.69	114038.28	3621.59	85	88.93	3621.59	70.69%	55.178	1412.61	03-07-2023	1189	12.05%	554.50
KTPS U# 1 & 2	117573.67	119379.24	1805.57	85	90.03	1805.57	3.15%	55.178	31.38	20-07-2023	1206	12.05%	12.49
BTPS 'A'	77188.94	77188.94	0.00	85	75.70	0.00	55.03%	55.178	0.00	30-05-2023	1155	12.05%	0.00
RTPS U # 1&2	139554.82	138066.07	-1488.75	85	69.88	-1223.93	36.71%	55.178	-247.92	29-04-2023	1124	12.05%	-92.00
T&D	37352.27	45384.06	8031.79	98.50%	99.54%	8116.59	100.00%	55.178	4478.57	10-06-2022	801	12.05%	1184.31
<b>TOTAL</b>													<b>3621.35</b>





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Order on APR of DVC for the year 2019 – 20

**CHAPTER -6****AMOUNT ADJUSTABLE ON ANNUAL PERFORMANCE REVIEW**

- 6.1 As shown in the previous chapter, the different allowable charges for 2019 – 20 of the generating stations of DVC as well as for its distribution functions including retail selling activities are summarized as under:

**Table – 23: Net ARR for sale to consumers and Licensees in radial mode in West Bengal**

Particulars	(Rs lakh)	
	Claim	Admitted
Power Purchase Cost	68744.65	66803.76
Generation cost	374091.07	381294.64
Transmission and distribution cost	25306.93	25306.42
Interest on Differential AFC	1534.88	3621.35
Interest on Working capital	1686.87	350.98
Interest on security deposit payable to West Bengal consumers	237.85	237.85
Interest on Temporary Accommodation	24051.94	0.00
Different petition filing charges to regulators and publication fees	491.70	250.09
Legal Charges	594.16	152.99
Rebate on sale of Power	6396.04	6396.04
O&M Expenses of communication system under ULDC Scheme	15.61	0.00
<b>Gross Total</b>	<b>503151.70</b>	<b>484414.12</b>
Less: Non-tariff income	1199.41	1610.10
<b>Net ARR for sale to consumers and Licensees in radial mode in West Bengal</b>	<b>501952.29</b>	<b>482804.02</b>

**6.2 Revenue from consumers other than licensee in radial mode in West Bengal**

- 6.2.1 DVC has stated in submission dated 02.12.2022 that bills for the year 2019 – 20 were raised as per tariff order dated 03.03.2017 for the year 2016 – 17 but after issuance of tariff order for the year 2019 – 20 on 17.06.2022, revised bills were



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Order on APR of DVC for the year 2019 – 20

raised with arrear amounts (difference of revised bills and old bills for 2019 – 20). It is stated with auditor's certificate that as per the tariff order dated 17.06.2022 for the year 2019 – 20, the revised revenue billed to consumers other than Licensees is Rs 427195.21 lakh. DVC has prayed to allow the unrecovered past period revenue gap, which could not be recovered through tariff for the year 2019 – 20 due to stay order on payment of arrears granted by the Hon'ble High Court at Calcutta and APTEL, along with the current revenue gap in the subsequent years.

6.2.2 This Commission has considered revenue billed to consumers other than Licensees at Rs 427195.21 lakh irrespective of the amount realized by DVC from its consumers in West Bengal command area. However, this Commission can not give any direction on recovery of revenue gap of past period, as prayed by DVC, where there is a stay from the Hon'ble Court.

**6.3 Revenue from other licensee in radial mode in West Bengal**

6.3.1 DVC has submitted the following in relation to revenue from other licensee in radial mode in West Bengal:

6.3.1.1 The radial supply to WBSEDCL and IPCL was considered in retail consumer mode till the orders dated 01.03.2019 of this Commission passed in the tariff proceedings of WBSEDCL and IPCL (Case No. OA-272/18-19 & Case No. OA-273/18-19), wherein the supply of power by DVC to them was not considered under retail supply mode. DVC has filed appeals before APTEL vide appeal no. 216 of 2019 and 190 of 2019 in view of non-recovery of the entire Revenue Billed to WBSEDCL and IPCL on account of the above orders.

6.3.1.2 In the tariff order dated 05.05.2022 for 2017 – 18 and order dated 17.06.2022 for the FY 2018 – 19 and 2019 – 20, this Commission has deducted the revenue requirement of DVC from WBSEDCL and IPCL from the approved ARR to arrive at the average cost of supply from which the Tariff was designed for the





consumers other than WBSEDCL and IPCL. This has resolved the mismatch in consideration of revenue requirements effective from 01.04.2017.

6.3.1.3 DVC has prayed before this Commission to consider the revenue realized amount from IPCL and WBSEDCL instead of the billed amount to the said licensees for the purpose of determination of revenue gap / surplus with auditor's certificate as below:

**Table – 24: Revenue recovered from other licensees in radial mode in West Bengal command area of DVC**

		(Rs Lakh)
Particulars		Amount
Revenue recovered from IPCL in radial mode in WB command area of DVC		3549.31
Revenue recovered from WBSEDCL in radial mode in WB command area of DVC		24582.22
Total		28131.53

6.3.2 This Commission maintains that DVC's sale of power to other licensees by name WBSEDCL and IPCL on radial mode cannot be treated as sale of power by a generating company to a consumer and both the parties are at liberty to settle the issues as per the provisions of law now in force, as decided in the Order dated 01.03.2019 in Case No. OA-272/ 18 – 19 and Order dated 01.03.2019 in Case No. OA-273/ 18 – 19. This Commission has also noted that the appeals of DVC to APTEL against the above mentioned orders being Appeal Nos. 190 of 2019 and 216 of 2019 are under scrutiny of the Appellate Tribunal. In absence of any bilateral settlement between DVC and WBSEDCL as well as DVC and IPCL, the revenue realized from the respective licensees for radial sale have been considered by this Commission as claimed by DVC.

6.4 In the tariff order dated 17.06.2022 for the year 2019 – 20, this Commission considered following adjustments as per APR order dated 19.07.2021 for the years 2006 – 09:

**Table – 25: Adjustments of APR orders in the tariff order for 2019 – 20**



Order on APR of DVC for the year 2019 – 20

Particulars	Amount
Revenue Gap of 2008 – 09 as per WBERC Order dated 19.07.2021 (part)	18675.16
Carrying Cost of 2008 – 09 @ 6%/ Year from 01.4.10 to 30.06.22 (part)	14940.13
<b>Total Regulatory Asset including Carrying Cost</b>	<b>33615.29</b>

The above amounts are to be considered to arrive at the adjustable amount in APR for the year 2019 – 20.

- 6.5 Accordingly, revenue gaps for the consumers of DVC in the state of West Bengal area are shown as follows:

**Table – 26: Revenue gap for the consumers in West Bengal command area of DVC**

Sl. No.	Particulars	Amount
1	Total revenue to be recovered through tariff in WB command area of DVC	482804.02
2	Revenue realized from IPCL in radial mode	3549.31
3	Revenue realized from WBSEDCL in radial mode	24582.22
4	Net ARR for Sale to consumers excluding Licensees in radial mode in West Bengal [1 – (2+3)]	454672.49
5	Revised Revenue billed to Consumers excluding Licensees (in radial mode) after implementation of Tariff Order dated 17.06.2022	427195.21
6	Revenue Gap (+)/Surplus (-) [4 – 5]	27477.28
7	Part adjustment of Revenue Gap of 208-09 as per WBERC APR Order dated 19.07.2021 with the ARR of 19 – 20 in MYT order dated 17.06.22	18675.16
8	Part adjustment of Carrying Cost against Revenue gap in APR for 2008-09 with the ARR of 19 – 20 in MYT order dated 17.06.22	14940.13
9	<b>Net recoverable amount (6:8)</b>	<b>61092.57</b>





Order on APR of DVC for the year 2019 – 20

- 6.6 In terms of regulation 2.6.6 of the Tariff Regulations, the entire recoverable amount of Rs. 61092.57 lakh or a part thereof shall be adjusted with the amount of Aggregate Revenue Requirement for any subsequent year or through a separate order as may be decided by this Commission.



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Order on APR of DVC for the year 2019 – 20

## CHAPTER -7

### DIRECTIONS

- 7.1 This Commission has given the following directions in different paragraphs in Chapter - 5 of this order. DVC shall comply with those directions.
- 7.1.1 DVC shall submit all details of energy wheeled, losses for wheeling, energy received for wheeling and charges recovered with the APR petition for the year 2020 – 21 onwards along with auditor's certificate.
- 7.1.2 After issuance of all True up order by CERC, DVC shall compute the adjustment amount, if any, based on respective truing up order and submit the same along with the subsequent APR.
- 7.1.3 In forthcoming APR petitions, DVC is directed to submit the details of station wise fees paid to CERC, related publication expenses and recovery of such fees, charges and expenses from beneficiaries outside DVC command area and other details, if any.
- 7.2 In addition to the above, this Commission gives certain directions to DVC as follows:
- 7.2.1 DVC shall submit legal expenses incurred by it for distribution activity and retail sale for only West Bengal command area with details along with auditor's certificate with the APR petition as directed in paragraph 7.1.2.
- 7.2.2 This Commission has considered the cost of own generating stations and T&D network of DVC as per CERC orders and regulations. DVC in all subsequent APR petitions shall submit through affidavit that the expenses other than the AFC claimed as per CERC orders are not claimed from persons other than own consumers and licensee in radial mode.





Order on APR of DVC for the year 2019 – 20

- 7.3 DVC is to take note of this order.
- 7.4 Let a copy of this order be served upon DVC.
- 7.5 A copy of this order shall be posted in the website of this Commission.

**Sd/-**  
**(PULAK KUMAR TEWARI)**  
**MEMBER**

**Sd/-**  
**(MALLELA VENKATESWARA RAO)**  
**CHAIRPERSON**

**Dated: 11.01.2024**

**Sd/-**  
**DY. DIR. (ENGINEERING)**