



ORDER

OF THE

**WEST BENGAL ELECTRICITY REGULATORY
COMMISSION**

IN THE MATTER OF

CASE NO: APR(R)-11/21-22

IN REGARD TO PETITION SUBMITTED BY DAMODAR VALLEY CORPORATION (DVC) FOR REVIEW OF ORDER DATED 31.05.2021 PASSED BY THE COMMISSION IN RESPECT OF DVC IN CASE NO. APR-53/15-16 RELATED TO ANNUAL PERFORMANCE REVIEW FOR THE YEARS 2009 – 2010 TO 2013 – 2014.

PRESENT:

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

DATE: 23.11.2022



- 1.0 This is in regard to the petition submitted by Damodar Valley Corporation (DVC) in terms of section 94(1)(f) of the Electricity Act, 2003 read with regulation 1.7.5 and 3.3 of the West Bengal Electricity Regulatory Commission (Conduct of Business) Regulations, 2013 for review and rectification of Annual Performance Review order of DVC for the years 2009 – 2010 to 2013 – 2014 issued by the Hon'ble West Bengal Electricity Regulatory Commission on 31.05.2021 in case no. APR-53/15-16.
- 2.0 In their review petition, DVC has stated that being aggrieved with the following issues apparent on the face of the record in the impugned order of the Commission, the petitioner is filing the review petition with a prayer to admit the petition and review the impugned order to the extent sought in the petition, allow the petitioner to submit further documents, clarification and explanation as may be required by the Commission and to pass such further and other orders, as the Commission may deem fit and proper keeping in view the facts and circumstances of the case.
- A. Disallowance of Transmission Loss.
 - B. Partial disallowance of Fixed Cost in respect of purchase of power during 2013-2014 through Long Term Agreements (LTA).
 - C. Disallowance of power purchase cost in excess of the Return on Equity of the T&D system eligible to DVC.
 - D. Recovery of the expenses towards contribution to Pension and Gratuity Fund and Sinking Fund based on PAFY / TAFY.
 - E. Disallowance of the entire cost of Temporary Financial Accommodation.
 - F. Tariff Filing Fees and Publication expenses of CERC not allowed for the years 2009 – 2010 and 2010 – 2011.
 - G. Computation of cost of UI as approved for the year 2010 – 2011.
 - H. Computation of Distribution Loss for the period 2009 – 2010 to 2013 – 2014.
 - I. The table (Annexure – 2I) for source wise power purchase cost computation for 2012 – 2013 is missing.
- 3.0 Now, the Commission proceeds to find out whether any case for review has been made out by the Petitioner in terms of Section 114 read with Order 47 Rule 1 of CPC, according to which a person aggrieved by order of a Court can file review on the following grounds, if no appeal against the said order has been filed:



- (a) Discovery of new and important matter of evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made.
- (b) On account of some mistake or error apparent on the face of record; and
- (c) For any other sufficient reason.

3.1 In this connection, reference could be made to the following judgments:

(a) In **Lily Thomas & Ors. vs. Union of India & Ors. [(2000) 6 SCC 224]** Judgment, the Hon'ble Supreme Court has held as under:

"56. It follows, therefore, that the power of review can be exercised for correction of a mistake and not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated as an appeal in disguise. The mere possibility of two views on the subject is not a ground for review...."

(b) In **Union of India vs. Sandur Manganese and Iron Ores Limited & others {(2013) 8 SCC 337}**, the Hon'ble Supreme Court has held as under:

"23. It has been time and again held that the power of review jurisdiction can be exercised for the correction of a mistake and not to substitute a view. In Parsion Devi & Others Vs. Sumitri Devi & Others, this Court held as under:

"9. Under Order 47 Rule 1 of CPC, a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 of CPC, it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has limited purpose and cannot be allowed to be "an appeal in disguise."

(c) In **M/S Goel Ganga Developers India Pvt. Ltd. vs. Union of India 2018 SCC Online SC 930**, the Hon'ble Supreme Court has held the view that one must remind oneself that the power of review is a power to be sparingly used. The power of review is not like appellate power. It is to be exercised only when there is an error apparent on the face of the record. Therefore, judicial discipline requires that a review application should be heard by the same Bench. Otherwise, it will become an intra-court appeal to another Bench before the same court or tribunal. This would totally undermine judicial discipline and judicial consistency"

4.0 Review sought on the issues mentioned in para 3.0 have been discussed below:

A. Disallowance of Transmission Loss:

Submission of DVC:



In the tariff order dated 24.08.2015 in Case No. TP- 62/14-15 and in the APR order dated 31.05.2021 in Case No. APR-53/15- 16 the Hon'ble Commission has allowed only distribution loss to DVC ignoring the associated transmission loss. It is to be noted that the grid network of DVC consists of transmission lines as well as distribution lines & feeders including power transformers, auto transformers and distribution transformers of different capacity and voltage levels. Hence it cannot be denied that to effect power supply to different consumer premises there occurs energy loss in transmission lines as well as in the distribution lines/feeders including the associated transformation losses.

It is submitted that distribution loss as allowed to DVC in terms of the WBERC (Terms and Conditions of Tariff) Regulations, 2007 and WBERC (Terms and Conditions of Tariff) Regulations, 2011 for the respective years have not ignored or disqualified the transmission loss of DVC grid network. The said Regulations have provided for fixing the norms of transmission loss of DVC after final conclusion of legal proceedings. It is also submitted that at present there are no pending legal proceedings of DVC that may cause any obstruction for fixing the norms of Transmission loss for DVC. DVC also in this regard humbly submits that since the transmission activity and distribution activity of the grid networks of DVC are inseparable, this Hon'ble Commission may be pleased to allow composite T&D Loss to DVC instead of only the distribution loss.

DVC had explained in details the rationale behind allowing the entire T&D loss in place of only the distribution loss for finalization of Energy Balance and ARR of DVC in the petition submitted before this Hon'ble Commission on 06.08.2020 for Annual Performance Review for the period 2009-10 to 2013-14.

DVC submits that Hon'ble State Commission of Jharkhand also allowed composite T&D loss for DVC's grid network while arriving at Energy Balance and ARR for different years. Hon'ble JSERC allowed the actual T&D loss of DVC for the period 2006-07 to 2011-12. However, for the period 2012-13 to 2015-16, JSERC has allowed the T&D loss @ 3%. Further, in the JSERC 'Terms and Conditions for Determination of Distribution Tariff' Regulations, 2015, the upper limit set for Distribution loss is 5% which sufficiently covers the entire T&D loss of DVC.

DVC therefore humbly submits before this Hon'ble Commission that as a consequence of approving only the distribution loss and disallowing the associated transmission losses, DVC has been deprived of a substantial portion of its actual cost of power purchase already incurred to maintain quality and reliable power supply to the consumers and has caused a serious stress on its financial position.



Based on the afore stated justifications and the data submitted therewith DVC also humbly submits before this Hon'ble Commission to remove the difficulty being faced by DVC in this regard in terms of Regulations 6.2, 6.3 and 6.4 of WBERC (Terms and Conditions of Tariff) Regulations, 2007 and Regulations 8.2, 8.3 and 8.4 of WBERC (Terms and Conditions of Tariff) Regulations, 2011 and allow the composite T&D loss of DVC in place of only the Distribution loss for finalization of Energy Balance and ARR of DVC for the period under consideration.

Commission's view:

Principles taken by the Commission in para 2.4.4 of the APR order dated 31.05.2021 is self explanatory which has been questioned by the petitioner. As per Order 47 Rule 1 of CPC, the review of such principle does not come within the fold of relevant provision of Civil Procedure Code. According to Hon'ble Apex Court power of review can be exercised for correction of mistake but not to substitute the view already taken. (**Lily Thomas & Ors. vs. Union of India & Ors. [(2000) 6 SCC 224]**)

B. Partial disallowance of Fixed Cost in respect of purchase of power during 2013-2014 through Long Term Agreements (LTA):

Submission of DVC:

While finalizing the power purchased amount for FY 2013-14 based on the energy balance and merit order dispatch principle, the Hon'ble Commission has disallowed the entire quantum of net UI and a portion of the power purchased from other sources through long term agreements. As could be understood that such partial disallowance of actual quantum of purchased power is an outcome of consideration of only Distribution Loss (2.2%) in place of Transmission and Distribution Loss (T&D loss) as elaborated herein before. Accordingly, while finalizing the corresponding cost of purchased power during FY 2013- 14, both fixed cost and variable cost have been disallowed on pro rata basis.

It is submitted that DVC entered into power purchase agreements with different generators on long term basis. As a mandatory condition in relevant CERC Regulations, the beneficiaries (viz. DVC, WBSEDCL etc.) are required to pay fixed cost for the agreed quantum of capacity allocation even for purchasing energy less than the allocation. In this regard, the judgement dated 23.03.2016 passed by the Hon'ble Tribunal in Appeal no. 255 of 2014 against Jharkhand State Electricity Regulatory Commission is relevant which, inter-alia, states that the State Commission shall consider entire fixed cost of power purchase as determined by the Central Commission vide its different orders from the generating stations of CPSUs and other IPPs for meeting the power obligations of the appellant to serve end consumers under its command in



the State of Jharkhand. Even the rate of Solar power purchase by the Appellant from CPSUs to meet its renewable purchase obligations should be allowed in its entirety as incurred by the Appellant.

In view of above, the petitioner humbly prays before the Hon'ble Commission to allow the entire Fixed Cost in respect of purchase of power by DVC during FY 2013-14 on long term basis. This prayer for allowing the entire fixed cost of power purchased during 2013-14 is, however, without prejudice to decision of the Hon'ble Commission on applicability of T&D loss in place of only the distribution loss as submitted herein before by the petitioner.

Commission's view:

Principles taken by the Commission in para 2.6 of the APR order dated 31.05.2021 is self-explanatory which has been questioned by the petitioner. As per Order 47 Rule 1 of CPC, the review of such principle cannot be undertaken owing to lack of jurisdiction of this Commission.

C. Disallowance of power purchase cost in excess of the Return on Equity of the T&D system eligible to DVC:

Submission of DVC:

The petitioner submits that in terms of Regulation 2.8.6.1 of WBERC (Terms and Conditions of Tariff) (Amendment) Regulations, 2013, the disallowance of the cost of purchased power due to excess distribution loss is required to be limited to an amount equal to the summation of return of equity and net UI receivable amount. But during the years 2010-11, 2011-12 and 2013-14 the amount of power purchase cost disallowed in excess of the limit are Rs. 468.62 lakhs, Rs. 5980.33 lakhs and Rs. 6360.69 lakh respectively.

In case of the petitioner, the summation of applicable ROE of the T&D Tariff proportionate with the yearly sales ratio in terms of the true-up order of CERC dated 29.09.2017 in petition no. 547/TT/2014 and net UI receivable falls short of the disallowed power purchase cost 2010-11, 2011-12 and 2013-14 as per the table given below:



Years	ROE of T&D Network as per True-Up order dated 29.09.2017 (Rs. Lakh)	SalesRatio (%)	ROE apportioned for WB part (Rs. Lakh)	UI Receivable (Rs. Lakh)	Disallowed Power Purchase cost due to consideration of lower Distribution Loss (Rs. Lakh)	Power Purchase Cost eligible for disallowance in terms of Tariff Regulation 2.8.6.1 (amended) (Rs. Lakh)
	A	B	C = A x B	D	E	F = E, if (C+D) > E = (C+D), if (C+D) < E
2009-10	6130.09	41.65%	2553.43	0.00	2543.48	2543.48
2010-11	5646.04	40.53%	2288.53	0.00	2757.15	2288.53
2011-12	6211.85	41.14%	2555.30	0.00	8535.63	2555.30
2012-13	8669.97	43.07%	3734.27	0.00	582.68	582.68
2013-14	8141.82	42.87%	3490.69	0.00	9851.38	3490.69
Total			14622.22	0.00	24270.32	11460.68

The petitioner therefore humbly submits before this Commission to limit the disallowance of the cost of purchased power in terms of Regulation.

Commission's view:

It has been observed that there is a computational error in the impugned order on disallowance of power purchase cost for the year 2013 – 14.

D. Recovery of the expenses towards contribution to Pension and Gratuity Fund and Sinking Fund based on PAFY / TAFY:

Submission of DVC:

The Hon'ble Commission in the APR order dated 31.05.2021 has not allowed DVC to recover the entire cost related to Contribution to Pension & Gratuity Fund and Sinking Fund as approved by the Central Commission (CERC), due to the fact that while computing the recoverable amount towards contribution to P&G Fund and Sinking Fund, the Hon'ble Commission has factored in the Plant Availability Factor (PAF) and Transmission Availability Factor (TAF) in terms of Regulation 21 of CERC Tariff Regulations, 2009 in a manner linked for recovery of other defined elements of Annual Fixed Cost (AFC) in terms of Regulation 14 of CERC 'Terms and Conditions of Tariff' Regulations, 2009.



Recovery of AFC is guided in terms of the regulation 21 of CERC Tariff Regulations which stipulates that availability-based recovery of AFC is restricted for the defined elements in terms of regulation 14 of the said Regulations. Expenses towards contribution to P & G Fund and Sinking Fund have been approved by CERC as additional part of AFC which are not covered by regulation 14 of CERC Tariff Regulation. Hence recovery of these additional / special elements of AFC cannot be linked to PAF/TAF in terms of Regulation 21 of CERC Tariff Regulations, 2009.

It is also pertinent to mention here that the approved quantum of the contribution to P&G Fund does actually belong to the period 2006-09. In order to avoid tariff shock to the consumers, CERC decided to allow 40% of the total amount (accrued up to 31.03.2009) in the tariff period 2009- 14 and further divided it equally in each year during the period 2009-10 to 2013-14 in terms of order dated 06.08.2009 passed by CERC in petitioner no. 66/2005. The amount of contribution to P&G Fund was subsequently modified in the order passed by CERC dated 08.05.2013 in petition no. 272 of 2010. CERC, in the respective orders dated 06.08.2009 and 08.05.2013, has nowhere directed the petitioner to recover the 40% of the liability towards the P&G contribution up to 31/03/2009 to be recovered during the years 2009-10 to 2013-14 by linking it to Plant/Transmission Availability Factor (PAF / TAF).

In the order dated 19.06.2020 in Case No. TP-80/19-20 and in the order dated 19.07.2021 in case no. APR-81/20-21 while finalizing the ARR for the years 2006-07 to 2008-09, the Hon'ble Commission has allowed the recovery of P&G and Sinking Fund separately without factoring the performance parameter. The Hon'ble Commission might be agreeable with the fact that P&G and Sinking Fund allowed by Hon'ble CERC during 2009-14 is part of actual P&G and Sinking Fund of 2006-09 period which was staggered for recovery to avoid tariff shock. So, on the same fund, two separate treatment is given one during 2006-09 period and another during 2009-14 period in spite of the fact that the CERC regulations were similar regarding recovery of the Annual Fixed Charge (AFC) for the concerned periods.

Moreover, the Hon'ble Tribunal in the judgment dated 23.11.2007 has held that entire cost towards P&G fund and Sinking Fund is recoverable from consumers through tariff.

Based on the afore stated justifications and documents placed before the Hon'ble Commission, the petitioner humbly submits to review the issue and allow recovery of the contribution to P&G Fund and Sinking Fund in its entirety to the petitioner for the period under consideration.



Commission's view:

Principles taken by the Commission in para 2.5.6 of the APR order dated 31.05.2021 is self explanatory which has been questioned by the petitioner. As per Order 47 Rule 1 of CPC, the review of such principle cannot be undertaken owing to lack of jurisdiction of this Commission.

E. Disallowance of the entire cost of Temporary Financial Accommodation:

Submission of DVC:

DVC claimed the interest on temporary financial accommodation in its APR application dated 06.08.2020 in terms of Regulation 5.6.5.4 of WBERC 'Terms and Conditions of Tariff' Regulations, 2011. The Hon'ble Commission in the APR order dated 31.05.2021 disallowed the entire claim of DVC in this regard despite the fact that there is clear short fall between revenue billed / ARR approved and realized amount based on the grounds as narrated in the APR order dated 31.05.2021.

All the relevant details of cash credit under the head 'Line of Credit' as per the desired format of the Commission are furnished herewith. DVC could not submit these details earlier i.e. before finalization of the APR application due to difficulty in retrieving old records.

From the data placed along with the petitioner, it is clear that the borrowed amount remained higher than the overdue amount. The statement that has been given in the Annual Accounts is because of the fact that the dues of JSEB has the major share in the amount borrowed. However, it is not the fact that the entire amount borrowed under the head 'Line of Credit' is only due to the payment shortfall of JSEB during those years. It is also the fact that there was shortfall in payment due to the consumers of the petitioner in West Bengal and Jharkhand other than JSEB. The petitioner submitted the actual payment realization in West Bengal during the years 2009-10 to 2013- 14 in the Form-E(B) in the APR Petition dated 06.08.2020. The instant cost of temporary accommodation has been claimed in the common part of the ARR which is meant for both Jharkhand and West Bengal. Amount meant for West Bengal part have been derived in proportion to the sales ratio during the respective years in a manner similar to the methodology adopted for other common expenditure items included in the ARR. It is also pertinent to mention here that, the Non-Tariff Income (which is nothing but Delayed Payment Surcharge) also include the Delayed Payment Surcharge (DPS) raised to JBVNL (erstwhile JSEB). In the APR order dated 31.05.2021, the NTI as a whole was deducted from Aggregate Revenue Requirement (ARR) and afterwards the ARR was apportioned for West Bengal part based on sales ratio. As such reduction in ARR due to NTI (which includes DPS of JBVNL)



availed by the consumers of DVC in West Bengal in proportion to the sale ratio. Hon'ble Commission may be pleased to adopt similar approach in case of Temporary Financial Accommodation as well.

Moreover, it is amply clear from the order dated 24.08.2015 issued by this Hon'ble Commission that there was shortfall of payment realization to the tune of Rs 1111.45 Cr (Ref page 66) for the period FY 2009-10 to FY 2012-13 for distribution activity of the petitioner in the state of West Bengal only. In the order dated 24.08.2015, Hon'ble Commission approved ARR of Rs. 3704.14 Cr for the year 2013-14 against approved sale of 7965.90 MU. However, the petitioner could realize Rs 2976.30 Cr in FY 2013-14 against actual sale of 7212.76 MU. Thus, there is shortfall of payment realization of Rs 377.63 Crs. $(=3704.14 \times 7212.76/7965.90 - 2976.30)$ for the year 2013-14 and for the part of West Bengal only. Accordingly, it may be concluded that the entire loan drawn under the head of Line of Credit was not against the overdue of JSEB only. For payment shortfall also in the West Bengal part of the petitioner, short-term borrowing was required.

The petitioner has claimed Rs 190.42 Cr for the West Bengal part for five years (2009-10 to 2013-14) under the head of the cost of Temporary financial accommodation as per the Annual Accounts of the petitioner which is lower than the interest burden borne by the petitioner for the shortfall of payment for the part of West Bengal.

The petitioner therefore humbly submits before the Hon'ble Commission to allow the cost of Temporary Financial Accommodation as claimed in the APR petition based on the actual expenses incurred on this account.

Commission's view:

Principles taken by the Commission in para 2.17 of the APR order dated 31.05.2021 is self explanatory which has been questioned by the petitioner. It has been observed by the Hon'ble Apex Court in **Jain Studios Ltd. V. Shin Satellite Public Co. Ltd. Reported in (2006) 5 SCC 501** that power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A petition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exception cases where there is mistake on the face of the record due to inadvertence.



F. Tariff Filing Fees and Publication expenses of CERC not allowed for the years 2009 – 2010 and 2010 – 2011:

Submission of DVC:

In the APR order dated 31.05.2021, the Hon'ble Commission has not allowed any amount on account of filing fees to CERC for the years 2009 – 2010 and 2010 – 2011, but no reason for disallowing the same has been cited in the said order. The total disallowance is around Rs. 94 lakhs. However, the claim was made based on the actual data.

Primarily it appears that it is a case of inadvertent omission and as such it is an error apparent on the face of record. Hence, petitioner respectfully submits before the Hon'ble Commission to allow the legitimate expenses already incurred by the petitioner and is a pass through element in tariff. However, if there is any reason for such disallowances, the petitioner also humbly submits that an opportunity be given to the petitioner to further justify the case to the satisfaction of the Hon'ble Commission.

Commission's view:

The Commission observes that at the time of computation of 'Tariff filing fees to CERC & related publication expenses', the same for the years 2009 – 2010 and 2010 – 2011, was not considered., which actually should have been Rs. 111.60 lakh and Rs. 117.01 lakh for the years 2009 – 2010 and 2010 – 2011 respectively. Hence, the claim of DVC for rectification of the computation of 'Different fees to CERC & WBERC and related publication expenses' may be accepted.

G. Computation of cost of UI as approved for the year 2010 – 2011:

Submission of DVC:

For the year 2010- 11, the Hon'ble Commission has approved UI quantum of 622.59 MU (Ref. row no. 21 in the Table at page no.17) for finalization of Energy Balance at para 2.4.5 in order dated 31.05.2021 to strike a balance between energy available and energy requirement for distribution system of DVC for 2.5% normative distribution loss in the West Bengal part of the petitioner.

However, while approving the cost of UI for FY 2010-11 at Annexure - 2G, (computation of power purchase cost for the year 2010-11) at Sl. No. 'D' the quantum of UI has been indicated as 607.71 MU as 'Admissible net Unscheduled Interchanges (UI) drawl for sale in WB' in place of 622.59 MU. Cost of UI has thereafter been computed in the same annexure at Sl. No. 'E' as



'Admissible Unscheduled Interchanges (UI) Charge Payable' using the UI quantum of 607.71 MU. As a result, approved UI cost becomes lower by around Rs. 358.043 lakh. This differential amount of around Rs. 358.043 lakh is, however, without prejudice to any issue related to the assessment of distribution loss of 2.5% in the same order dated 31.05.2021. It may be pertinent to mention here that 607.71 MU is actually the approved quantum of UI for the year 2009-10.

Primarily it appears that it is a case of inadvertent omission and as such it is an error apparent on the face of record. Hence the petitioner respectfully prays before the Hon'ble Commission to revisit the UI cost computation for the year 2010-11 and kindly rectify the error. However, if there is any definite reason for such consideration, the petitioner also humbly submits that an opportunity be given to the petitioner to further justify the case to the satisfaction of the Hon'ble Commission.

Commission's view:

The Commission observes that there is a computational error in 'Admissible net Unscheduled Interchanges (UI) drawl for sale in WB' for the year 2010 – 2011. Hence, the claim of DVC for rectification of the computation of 'Admissible net Unscheduled Interchanges (UI) drawl for sale in WB' and consequent change in power purchase cost and Interest on Working Capital has merit for review.

H. Computation of Distribution Loss for the period 2009 – 2010 to 2013 – 2014:

Submission of DVC:

The petitioner submits that while assessing the distribution loss of the petitioner in its West Bengal part in the APR order dated 31.05.2021 in Case No. APR-53/15-16, a deviation from the methodology adopted for the similar computations in the previous orders dated 24.08.2015 (in Case No. TP-62/ 14-15), dated 25.05.2015 (in Case No. TP-57/13-14) and dated 19.06.2020 (in Case No. TP - 80/19-20) has been noticed. In all the previous orders mentioned, the loss (%) was computed as $L (\%) = (E1/E2)$, where L = Distribution Loss (%), $E1$ = (Energy Loss in MU) and $E2$ = (Energy Requirement for DVC for distribution business in West Bengal in MU). Whereas, in the APR order dated 31.05.2021 in Case No. APR - 53 / 15 - 16, the distribution loss has been assessed as $L (\%) = (E1/E3)$, where L = Distribution Loss (%), $E1$ = (Energy Loss in MU) and $E3$ = (Proportionate Utilization in West Bengal in MU).



As a result of this deviation in loss computation methodology, the petitioner has been deprived of around 4 MU of actual purchased power in each year. Moreover, as a result of this apparent error in computation of distribution loss, DVC has been denied of a total amount of around Rs. 575 lakhs.

Primarily it appears that the error may have happened inadvertently and as such it is an error apparent on the face of record. Hence the petitioner respectfully prays before the Hon'ble Commission to revisit the loss computation methodology adopted for all the years under consideration and may be pleased to rectify the error. However, if there is any definite reason ~~for~~ such consideration, DVC also humbly submits that an opportunity be given to the petitioner to further justify the case to the satisfaction of the Hon'ble Commission.

Any change in Power Purchase Cost will lead to change in interest on Working Capital. The petitioner therefore humbly submits before this Hon'ble Commission to revise the Interest on Working Capital accordingly.

Commission's view:

The Commission observes that there is a computational error in Distribution Loss for the period 2009 – 2010 to 2013 – 2014. Hence, the claim of DVC for rectification of the computation of 'T&D Loss' and consequent change in power purchase cost and Interest on Working Capital has merit for review.

- I. **The table (Annexure – 2I) for source wise power purchase cost computation for 2012 – 2013 is missing:**

Submission of DVC:

The mentioned Annexure 2I is found missing in the APR order dated 31.05.2021. The petitioner humbly prays before the Hon'ble Commission to kindly provide the Annexure-2I as an integral part of the order for any future reference.

Commission's view:

The Commission observes Annexure 2I is missing in the APR order dated 31.05.2021. Hence, the claim of DVC has merit for review as this is a typographical error.



ORDER OF THE COMMISSION

5.0 The submissions and prayer of DVC and observations / views of the Commission have been narrated in the previous paragraphs. On the basis of the item wise observations / views of the Commission narrated in the previous paragraphs, the decision of the Commission on the prayer of WBPDC is given in the following paragraphs.

5.1 Disallowance of power purchase cost in excess of the Return on Equity of the T&D system eligible to DVC.

The Commission observes that as per regulation 2.8.6.1 of the West Bengal Electricity Regulatory Commission (Terms and Conditions of Tariff) (Amendment) Regulations, 2013, effective from 30.07.2013, the disallowance on account of excess power purchase cost due to excess distribution loss over the norms in distribution loss will be limited to an amount equal to summation of Return on equity (ROE) and net UI receivable amount subject to following conditions:

- Net UI receivable amount = UI receivable amount over the year – UI payable amount over the year.
- Net UI receivable amount ≥ 0

However, there was no limitation on disallowance on account of excess power purchase cost due to excess distribution loss over the norms in distribution loss prior to 30.07.2013. Therefore, from 30.07.2013 to 31.03.2014 (244 days) there has been a computational error. ROE of T&D as per CERC Order 29.09.17 is Rs 8141.82 lakh which comes out to be Rs. 3490.69 lakh for West Bengal command area. This has been factored in the revised power purchase cost for 2013 – 14 shown in Annexure – 2J of this order.

5.2 Tariff Filing Fees and Publication expenses of CERC not allowed for the years 2009 – 2010 and 2010 – 2011.

'Different fees to CERC & WBERC and related publication expenses' for the years 2009 – 2010 and 2010 – 2011 as was mentioned under paragraph 2.9 of the APR order dated 31.05.2021 is redetermined as below:

Item	(Rs lakh)				
	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
Tariff filing fees for WBERC	22.59	22.59	27.01	30.87	31.25
Publication expenses related to WBERC	0.00	0.00	2.88	2.87	2.87
Licensee Fee	25.80	28.89	29.14	31.09	34.41



Item	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
Fees for approval of power purchase agreement by WBERC	0.00	0.00	4.00	0.00	4.00
Total fees paid to WBERC and publication expense related to WBERC	48.39	51.48	63.03	64.83	72.53
Tariff filing fees to CERC & related publication expenses	111.60	117.01	138.35	290.88	354.11
Share for above in West Bengal Area	46.49	47.43	56.91	125.28	151.82
Total fees paid to WBERC & CERC and publication fees as admitted by the Commission	94.88	98.91	119.94	190.11	224.35

5.3 Computation of cost of UI as approved for the year 2010 – 2011.

The Commission observes that there is an error in computation of Admissible net Unscheduled Interchange (UI) drawal for sale in West Bengal for the year 2010 – 2011 as has been allowed in APR order dated 31.05.2021. The amended figure will be 626.42 MU as shown in Sl. No-D of Annexure 2G of this order subsequently, instead of 607.71 MU in the Order dated 31.05.2021.

5.4 Computation of Distribution Loss for the period 2009 – 2010 to 2013 – 2014.

The Commission observes that there is an error in computation of distribution loss for the years 2009 – 2010 to 2013 – 2014 as has been allowed in APR order dated 31.05.2021 for the period 2009 – 2010 to 2013 – 2014. The 'T&D Loss (MU)' for the period 2009 – 2010 to 2013 – 2014 is redetermined at 159.16 MU, 153.50 MU, 157.56 MU, 165.17 MU and 165.42 MU, instead of 155.03 MU, 149.67 MU, 153.78 MU, 161.37 MU, and 161.79 MU respectively, as was allowed in the APR order dated 31.05.2021. Accordingly, 'T&D Loss (MU)', for the period 2009 – 2010 to 2013 – 2014 as was mentioned under paragraph 2.4.4, of the APR order dated 31.05.2021 is amended as below:

Distribution Loss						
Particulars	Unit	2009-10	2010-11	2011-12	2012-13	2013-14
Proportionate utilization in West Bengal	MU	5962.53	5986.69	6407.38	7016.29	7353.88
T & D Loss (%) for West Bengal		2.6	2.5	2.4	2.3	2.2
T & D Loss (MU)	MU	159.16	153.5	157.56	165.17	165.42

The 'Energy Balance' for the period 2009 – 2010 to 2013 – 2014 as was mentioned under paragraph 2.4.5, of the APR order dated 31.05.2021 is amended as below:

Sl. No.	Particulars	Unit	As admitted by Commission				
			2009-10	2010-11	2011-12	2012-13	2013-14



Sl.	Particulars	Unit	As admitted by Commission				
1	Energy Sales within West Bengal	MU	5778.43	5827.43	6218.96	6882.38	7212.76
2	LT Sales	MU	0.11	0.11	0.10	0.00069	0.00
3	HT Sales	MU	5778.32	5827.32	6218.86	6882.38	7212.76
4	Total Sales within West Bengal (2+3)	MU	5778.43	5827.43	6218.96	6882.38	7212.76
5	Energy Sales within Jharkhand	MU	8094.00	8549.48	8899.12	9096.67	9610.55
6	Total Energy Sales within DVC Area (4+5)	MU	13872.43	14376.91	15118.08	15979.05	16823.31
7	Energy Wheeled	MU	304	276	347	199	228
8	Units utilized in own premises including Construction Power	MU	138	117	111	112	101
9	Overall Utilization (6+7+8)	MU	14314.43	14769.91	15576.08	16290.05	17152.31
10	Proportionate utilization in West Bengal (9x22/100)	MU	5962.53	5986.69	6407.38	7016.29	7353.88
11	T & D Loss (%) for West Bengal		2.6	2.5	2.4	2.3	2.2
12	T & D Loss (MU)	MU	159.16	153.5	157.56	165.17	165.42
13	Energy Requirement for DVC for distribution business in West Bengal (10+12)	MU	6121.69	6140.19	6564.94	7181.46	7519.3
14	Total Energy receipt for Wheeling	MU	350	284	397	242	226
15	Proportionate Energy receipt for Wheeling for distribution business in West Bengal [14 x 22 / 100]	MU	145.79	115.11	163.31	104.23	96.9
16	Energy requirement for DVC for distribution business in West Bengal from generation and power purchase (13 - 15)	MU	5975.9	6025.08	6401.63	7077.23	7422.4
17	Proportionate Generation available for sale within West Bengal	MU	5060.57	5101.31	5871.87	6009.50	6695.16
18	Proportionate Purchase for sale in West Bengal	MU	303.49	297.35	519.79	993.17	934.99
19	Admissible Proportionate Purchase for sale in West Bengal	MU	303.49	297.35	519.79	993.17	727.24
20	Non-Admissible Proportionate Purchase for sale in West Bengal		0	0	0	0	207.75
21	Admissible energy drawal through Unscheduled Interchange (UI) [16 – 17 – 18]	MU	611.84	626.42	9.97	74.56	0
22	Share of energy requirement in West Bengal against the total requirement of DVC	%	41.654	40.533	41.136	43.071	42.874

Consequently, the Power purchase cost for sale in West Bengal command area of DVC for the for the period 2009 – 2010 to 2013 – 2014 shall be Rs 28978.38 lakh , Rs 22015.14 lakh , Rs



19623.13 lakh , Rs 38849.44 lakh and Rs 37679.91 lakh instead of Rs 28826.51 lakh , Rs 21564.94 lakh , Rs 19505.97 lakh Rs 38783.77 lakh and Rs 37679.91 lakh respectively, as was allowed in the APR order dated 31.05.2021. The amended 'Purchase cost from CSGS and Renewable Sources for sale to Consumers in the command area in West Bengal', for the period 2009 – 2010 to 2013 – 2014 as was mentioned under paragraph 2.6, Annexure 2F to 2J, of the APR order dated 31.05.2021 are given in revised Annexure 2F to 2J of this Order.



Computation of power purchase cost for the year 2009 – 2010 (Annexure 2F)

Sl. No	Agency	Energy	Fixed Charge	Energy Charge Rate	Energy Charge	Transmission Charge	Fuel & Power Cost Adj.	Total Cost	CTU Grid loss
		MU	Rs. Lakh	Paise/kWh	Rs. lakh	Rs. lakh	Rs. lakh	Rs. lakh	MU
1	NTPC Ltd.								
	a) Talcher (TSTPS)	21.98	123.12	41.10	90.34	54.07	138.33	405.86	0.63
	b) Farakka (FSTPS III)	0.00							
	c) Farakka (FSTPS I)	0.00							
	d) NTPC (KhSTPS-1)	0.00							
	e) NTPC (KhSTPS-2)	0.00							
2	PTC India Ltd.	0.00							
	a) Chukha HEP	189.65	0.00	159.00	3015.44	465.60		3481.03	5.82
	b) Kuruchhu HEP	91.56	0.00	185.00	1693.86	224.76		1918.62	2.82
	c) Tala HEP	184.44	0.00	184.00	3393.70	452.40		3846.10	5.82
3	NHPC Ltd.								
	a) Rangeet HEP	32.13	284.04	79.40	255.11	78.92	55.67	673.74	0.97
	b) Teesta HEP	222.36	1820.47	75.10	1669.92	546.14	917.32	4953.85	6.73
4	WBSEDCL	9.54	0.00	290.20	276.85			276.59	0.27
5	Maithon Power Ltd.	0.00							
6	Power Exchange								
7	Solar(RPO)	0.00							
	a) NTPC(VVNL)	0.00							
	b) NTPC (TALCHER & UNCHAHAR)	0.00							
8	REC								
	Total	751.66	2227.63		10395.22	1821.89	1111.32	15555.79	23.06

Energy purchased after CTU Loss for sale in DVC area in West Bengal and JH (751.66 MU – 23.06 MU)

Share of above in WB

728.60

303.49

Power purchase cost including transmission cost for sale in WB

A Rs. lakh 6479.61

Net Unscheduled Interchange (UI) drawal

B MU 1625.00

Net Unscheduled Interchange (UI) Charge Payable

C Rs. lakh 59755.00

Admissible net Unscheduled Interchange (UI) drawal for sale in WB

D MU 611.84

Admissible Unscheduled Interchange (UI) Charge Payable

E = (C x D)/(B) Rs. lakh 22498.77

Total Power purchase cost for sale in WB

F = A+E Rs. lakh 28978.38

Computation of power purchase cost for the year 2010 – 2011 (Annexure 2G)

Sl. No	Agency	Energy	Fixed Charge	Energy Charge Rate	Energy Charge	Transmission Charge	Fuel & Power Cost Adj.	Total Cost	CTU Grid loss
		MU	Rs. Lakh	Paise/kWh	Rs. lakh	Rs. lakh	Rs. lakh	Rs. lakh	MU
1	NTPC Ltd.								
	a) Talcher (TSTPS)	21.59	123.23	163.73	353.49	78.10	64.12	619.00	0.59
	b) Farakka (FSTPS III)								
	c) Farakka (FSTPS I)								
	d) NTPC (KhSTPS-1)								
	e) NTPC (KhSTPS-2)								
2	PTC India Ltd.								
	a) Chukha HEP	190.71	0.00	159.00	3032.29	689.71	0.00	3721.98	5.24
	b) Kuruchhu HEP	85.86	0.00	185.00	1588.41	310.52	0.00	1898.96	2.36
	c) Tala HEP	198.16	0.00	184.00	3646.14	716.66	0.00	4362.79	5.45
3	NHPC Ltd.								
	a) Rangeet HEP	34.04	289.03	79.26	269.80	123.11	154.39	836.35	0.94
	b) Teesta HEP	223.97	1735.12	74.85	1676.42	810.00	1466.48	5688.13	6.16
4	WBSEDCL								
5	Maithon Power Ltd.								
6	Power Exchange								
7	Solar(RPO)								
	a) NTPC(VVNL)								
	b) NTPC (TALCHER & UNCHAHAR)								
8	REC								
	Total	754.33	2147.38		10566.5526	2728.1		17127.21	20.74

Energy purchased after CTU Loss for sale in DVC area in West Bengal and JH (754.33 MU – 20.74 MU)

Share of above in WB

Power purchase cost including transmission cost for sale in WB

Net Unscheduled Interchange (UI) drawal

Net Unscheduled Interchange (UI) Charge Payable

Admissible net Unscheduled Interchange (UI) drawal for sale in WB

Admissible Unscheduled Interchange (UI) Charge Payable

Total Power purchase cost for sale in WB

733.59									
297.35									
6942.22	A	Rs. lakh							
1781.98	B	MU							
42878.00	C	Rs. lakh							
626.42	D	MU							
15072.92	E = (C x D)/(B)	Rs. lakh							
22015.14	F = A+E	Rs. lakh							

Computation of power purchase cost for the year 20011 – 2012 (Annexure 2H)

Sl. No	Agency	Energy	Fixed Charge	Energy Charge Rate	Energy Charge	Transmission Charge	Fuel & Power Cost Adj.	Total Cost	CTU Grid loss
		MU	Rs. Lakh	Paise/kWh	Rs. lakh	Rs. lakh	Rs. lakh	Rs. lakh	MU
1	NTPC Ltd.								
	a) Talcher (TSTPS)	20.58	164.88	204.70	421.27	265.06	404.92	1256.12	0.34
	b) Farakka (FSTPS III)								
	c) Farakka (FSTPS I)								
	d) NTPC (KhSTPS-1)								
	e) NTPC (KhSTPS-2)								
2	PTC India Ltd.								
	a) Chukha HEP	177.76	0.00	159.00	2826.38	2290.85	0.00	5117.31	2.84
	b) Kuruchhu HEP	77.05	0.00	185.00	1425.43	991.48	0.00	2416.89	1.34
	c) Tala HEP	188.73	0.00	184.95	3490.56	2433.07	0.00	5923.67	2.94
3	NHPC Ltd.								
	a) Rangeet HEP	34.12	989.33	289.97	989.38	439.63	0.00	2418.29	0.55
	b) Teesta HEP	218.30	4243.25	194.37	4243.10	2810.45	0.00	11296.95	3.70
4	WBSEDCL								
5	Maithon Power Ltd.	543.14	7847.19	165.25	8975.39	1157.30	0.00	17979.89	7.71
6	Power Exchange	23.32	0.00	232.75	542.77	0.00	0.00	542.82	0.00
7	Solar(RPO)								
	a) NTPC(VVNL)								
	b) NTPC (TALCHER & UNCHAHAR)								
8	REC								
	Total	1283.00	13244.65		22914.28	10387.84		46951.94	19.42

Energy purchased after CTU Loss for sale in DVC area in West Bengal and JH (1283.00 MU – 19.42 MU)

Share of above in WB

Power purchase cost including transmission cost for sale in WB

Net Unscheduled Interchange (UI) drawal

Net Unscheduled Interchange (UI) Charge Payable

Admissible net Unscheduled Interchange (UI) drawal for sale in WB

Admissible Unscheduled Interchange (UI) Charge Payable

Total Power purchase cost for sale in WB

A	Rs. lakh	19314.12
B	MU	684.53
C	Rs. lakh	21216.19
D	MU	9.97
E = (C x D)/(B)	Rs. lakh	309.01
F = A+E	Rs. lakh	19623.13

1263.58

519.79

Computation of power purchase cost for the year 20012 – 2013 (Annexure 2I)

Sl. No	Agency	Energy	Fixed Charge	Energy Charge Rate	Energy Charge	Transmission Charge	Fuel & Power Cost Adj.	Total Cost	CTU Grid loss
		MU	Rs. Lakh	Paise/kWh	Rs. lakh	Rs. lakh	Rs. lakh	Rs. lakh	MU
1	NTPC Ltd.								
	a) Talcher (TSTPS)	20.78	279.30	134.38	279.24	7 1.47	-51.72	578.35	0.54
	b) Farakka (FSTPS III)	221.38	5539.35	250.22	5539.37	761.38	-2027.77	9812.31	6.06
	c) Farakka (FSTPS I)								
	d) NTPC (KhSTPS-1)								
	e) NTPC (KhSTPS-2)								
2	PTC India Ltd.								
	a) Chukha HEP	161.41	0.00	159.73	2578.20	555.13	0.00	3133.36	4.69
	b) Kuruchhu HEP	67.85	0.00	203.03	1377.56	233.39	0.00	1610.89	1.97
	c) Tala HEP	171.74		202.00	3469.15	590.69	0.00	4059.96	4.98
3	NHPC Ltd.								
	a) Rangeet HEP	32.05	945.35	294.93	945.25	110.23	0.00	2000.93	0.77
	b) Teesta HEP	193.02	2787.78	144.13	2782.00	663.84	0.00	6239.39	5.75
4	WBSEDCL								
5	Maithon Power Ltd.	1505.03	22461.95	149.25	22462.57	5176.15	10527.62	60627.67	42.60
6	Power Exchange								
7	Solar(RPO)								
	a) NTPC(VVNL)								
	b) NTPC (TALCHER & UNCHAHAR)								
8	REC								
	Total	2373.26	32013.73		39433.34	8090.81		46.00	67.36

Energy purchased after CTU Loss for sale in DVC area in West Bengal and JH (2373.26 MU – 67.36 MU)

Share of above in WB

Power purchase cost including transmission cost for sale in WB

Net Unscheduled Interchange (UI) drawal

Net Unscheduled Interchange (UI) Charge Payable

Admissible net Unscheduled Interchange (UI) drawal for sale in WB

Admissible Unscheduled Interchange (UI) Charge Payable

Total Power purchase cost for sale in WB

	MU	2305.90
	MU	993.18
A	Rs. lakh	37949.61
B	MU	272.57
C	Rs. lakh	3289.51
D	MU	74.56
E = (C x D)/(B)	Rs. lakh	899.83
F = A+E	Rs. lakh	38849.43

Sl. No	Agency	Energy MU	Fixed Charge Rs. Lakh	Energy Charge Rate Paise/kWh	Energy Charge Rs. lakh	Transmission Charge Rs. lakh	Fuel & Power Cost Adj. Rs. lakh	Total Cost Rs. lakh	CTU Grid loss MU
1	NTPC Ltd.								
a)	Talcher (TSTPS)	33.60	284.53	198.15	665.79	166.14	4.27	1169.20	0.60
b)	Farakka (FSTPS III)	222.86	4044.21	280.69	6255.40	1102.06	1422.22	12823.89	3.68
c)	Farakka (FSTPS I)	22.42	194.34	276.09	618.99	110.88	56.13	980.34	0.40
d)	NTPC (KhSTPS-1)	11.68	115.84	267.15	312.03	57.77	9.07	494.71	0.21
e)	NTPC (KhSTPS-2)	20.34	235.80	115.93	494.16	100.57	13.47	844.01	0.36
2	PTC India Ltd.								
a)	Chukha HEP	188.02	0.00	159.69	3002.40	929.76	476.97	4409.13	4.12
b)	Kuruchhu HEP	74.07	0.00	203.00	1503.62	366.28	-5.74	1864.18	1.62
c)	Tala HEP	200.51	0.00	202.00	4050.38	991.54	-6.15	5035.77	4.395
3	NHPC Ltd.								
a)	Rangteet HEP	34.62	533.97	143.72	497.56	171.21	119.08	1321.83	0.74
b)	Teesta HEP	196.39	2463.77	131.91	2590.65	971.14	2789.16	8814.73	4.17
4	WBSEDCL								
5	Maitlith Power Ltd.	1204.83	29156.99	214.64	25860.47	5957.87	-3.13	60972.01	25.95
6	Power Exchange								
7	Solar(RPO)								
a)	NTPC(VVNLI)	18.35	0.00	1056.06	1937.87	0.00	12.85	1950.71	0.68
b)	NTPC (TALCHER & UNCHAHAAR)	0.001513	0.00	935.00	0.14	0.00	20.00	20.14	0.00
8	REC							49.98	
Total		2227.70	37029.45		47789.47	10925.22		100750.63	46.93
Energy purchased after CTU Loss for sale in DVC area in West Bengal and JH (2227.70 MU – 46.93 MU)									
Share of above in WB									
A									
B									
C=100750.63 x (B/A)									
D									
E=100750.63 x (D/A)									
F									
G									
H=E X (121/365)+[E X (244/365) subject to ceiling of respective amount of G]									
I = C – H									
2180.77									
934.97									
Lakh									
MU									
-207.75									
Lakh									
8141.82									
Lakh									
3490.69									



The consequence upon change in power purchase cost as mentioned in preceding paragraphs, revised interest on working capital for power purchase during the period 2009 – 2010 to 2013 – 2014 shall be Rs 638.97 lakh, Rs 485.43 lakh, Rs 415.03 lakh, Rs 909.08 lakh and Rs 1000.40 lakh instead of Rs 635.62 lakh, Rs 475.51 lakh, Rs 412.55 lakh, Rs 907.54 lakh and Rs 887.55 lakh respectively, as was allowed in the APR order dated 31.05.2021. The revised computation is shown below:

Year	Cost of power purchase for sale in WB (Rs. in lakh)	Percentage of working capital	Amount of working capital requirement (Rs. in lakh)	SBI PLR Rate (In %)	Interest on working capital as per SBI rate (Rs. in lakh)
2009-2010	28978.38	18	5216.11	12.25	638.97
2010-2011	22015.14	18	3962.73	12.25	485.43
2011-2012	19623.13	18	3532.16	11.75	415.03
2012-2013	38849.44	18	6992.90	13.00	909.08
2013-2014	37679.91	18	6782.38	14.75	1000.40

5.5 The table (Annexure – 2I) for source wise power purchase cost computation for 2012 – 2013 is missing.

The Commission observes that Annexure 2I, regarding Computation of power purchase cost for the year 20012 – 2013 was missing. Further, Rs 46.00 lakh for purchasing Renewable Energy Certificate (REC), mistakenly not considered in the impugned APR order has been included in the instant review order. The revised Annexure 2I is already shown in this Order.

5.6 With the changes, as discussed before, the net Aggregate Revenue Requirement for sale to consumers and Licensees in West Bengal command area of DVC for the period 2009 – 2010 to 2013 – 2014 under paragraph 3.1 of the APR order dated 31.05.2021 has been recomputed as given below:

(Rs lakh)

Item	As admitted by the Commission				
	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
Power Purchase Cost	28978.38	22015.14	19623.13	38849.44	37679.91
Generation cost	140539.87	151521.79	201344.06	245195.84	305903.22



Review order in regard to petition submitted by Damodar Valley Corporation (DVC) for review of Annual Performance Review (APR) Order dated 31.05.2021 passed by the Commission in favour of DVC in case no. APR-53/15-16 for the years 2009 – 2010 to 2013 – 2014



Item	As admitted by the Commission				
	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
Cess on Generation	112.74	105.17	72.17	83.60	58.73
Transmission and distribution cost	16058.21	16779.21	18029.93	21250.94	21792.86
Interest on Working capital	638.97	485.43	415.03	909.08	1000.4
Interest on security deposit payable to West Bengal consumers	0	0	95.93	76.01	37.69
Interest on Temporary Accommodation	0.00	0.00	0.00	0.00	0.00
Diff petition filing charges to regulators and publication fees	94.88	98.91	119.94	190.11	224.35
Legal Charges	34.80	35.12	51.71	56.48	57.74
Rebate on sale of Power	213.35	123.62	480.12	673.60	1406.18
Gross Total	186671.20	191164.39	240232.02	307285.10	368161.08
Less: Non-tariff income	78.73	309.27	1174.02	1361.04	891.35
Net ARR for sale to consumers and Licensees in West Bengal	186592.47	190855.12	239058	305924.06	367269.73

- 5.7 The Accumulated Revenue gap during the period 2009 – 2010 to 2013 – 2014 in the table under paragraph 3.2 of the Chapter – 3 of the APR Order dated 31.05.2021 has also been modified accordingly and given below:

(Rs lakh)

ACCUMULATED REVENUE GAP OF DVC IN THE COMMAND AREA IN WEST BENGAL FOR THE YEARS 2009 – 2010 TO 2013 – 2014						
Sl. No.	Particulars	2009 – 10	2010 – 11	2011 – 12	2012 – 13	2013 – 14
1	Total revenue to be recovered through tariff	186592.47	190855.12	239058	305924.06	367269.73
2	Revised Revenue Billed to the Consumers other than Licensees as per Order dtd 19.03.2020	142742.75	156514.16	214812.66	258375.93	269519.74
3	Old Revenue Billed to WBSEDCL (prior to Order dt 24.08.2015)	20961.83	17307.53	18439.02	20228.92	22314.17
4	Old Revenue Billed to IPCL (prior to Order dt 24.08.2015)	24672.12	21068.5	26352.51	31487.80	34276.49
5	Revenue Gap/ Surplus	-1784.23	-4035.07	-20546.19	-4168.59	41159.33
6	Accumulated Revenue gap during the period 2009 – 2010 to 2013 - 2014					10625.25



- 5.8 In the impugned APR Order dated 31.05.2021 in Case No. APR – 53/15 – 16, recoverable amount was determined Rs 5365.92 lakh and the entire amount is adjusted with the Aggregate Revenue in Tariff Order dated 05.05.2022 for the year 2017 – 18 in Case No. TP – 71/16 – 17. Since the recoverable amount is now revised to Rs 10604.97 lakh, in terms of regulation 2.6.6 of the Tariff Regulations, 2011, the balance recoverable amount of **Rs 5259.33 lakh** (Rs 10625.25 lakh – Rs 5365.92 lakh) or a part thereof shall be adjusted with the amount of Aggregate Revenue Requirement for the year 2020 – 21 or that for any other ensuing year or in a separate order, as may be decided by the Commission.
- 5.9 Hon'ble APTEL in its judgement dated 19.09.2022, in Appeal No. 263 of 2015 regarding appeal of DVC against the order dated 24.08.2015 of this Commission determining the Annual Revenue Requirement (ARR) for Financial Years (FYs) 2009-2011 to 2013-14 and Retail Supply Tariff for FY 2013-14, has directed that the State Commission shall hear the parties, as well as all stakeholders, including DVPCA on the issue of carrying cost and pass a comprehensive order thereupon in accordance with law. The Tribunal has also recorded in the said order that other than carrying cost there are five issues raised by DVC against the MYT order dated 24.08.2015 which have been again decided in the APR Order dated 31.05.2021 on the same lines as was the approach of the Commission by the Order dated 24.08.2015 and the same are presently the subject matter of review proceedings pending before the State Commission.
- 5.10 The order dated 24.08.2015 of this Commission determining the Annual Revenue Requirement (ARR) for Financial Years (FYs) 2009-2011 to 2013-14 and Retail Supply Tariff for FY 2013-14 has been challenged by DVC Power Consumers' Association (DVPCA) also in Appeal No. 275 of 2015 on certain grounds. The State Commission passed two orders, they being Order dated 19.03.2020 determining the Retail Supply tariff of FYs 2009-10 to 2012-13 and Order dated 31.05.2021 on Truing up/Annual Performance Review ("APR") for FYs 2009-10 to 2013-14. DVPCA has also preferred an appeal before APTEL against subsequent orders of the State Commission rendered on 19.03.2020 and 31.05.2021. These appeals of DVPCA are yet to be finally disposed of by Hon'ble APTEL.
- 5.11 The present order is being issued subject to the final outcome of the above mentioned appeals pending in the APTEL as well as the subsequent order of this Commission in compliance with the Order of the Tribunal dated 19.09.2022 in Appeal No. 263 of 2015.



Review order in regard to petition submitted by Damodar Valley Corporation (DVC) for review of Annual Performance Review (APR) Order dated 31.05.2021 passed by the Commission in favour of DVC in case no. APR-53/15-16 for the years 2009 – 2010 to 2013 – 2014



5.12 DVC is to take note of this order.

5.13 The Review petition of DVC is thus disposed of. Let a copy of this order be served upon DVC.

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

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

DATED: 23.11.2022

**Sd/-
SECRETARY**