

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL**

**Subject: Review Petition against the True Up Order for FY 2013-14 dated November 30, 2018 of MPPMCL, East, West and Central Discoms (Petition No. 14 of 2019)**

**ORDER**

Date of Order: 21/05/2019

MP Power Management Company Limited (MPPMCL)  
MPPoorvKshetra Vidyut Vitran Company Limited (East Discom)  
MP Madhya Kshetra Vidyut Vitran Company Limited (Central Discom)  
MP Paschim Kshetra Vidyut Vitran Company Limited (West Discom)

} **Petitioner(s)**

1. The Commission vide its Order dated November 30, 2018 in Petition No. 33/2016 has approved the true up for FY 2013-14 for the Petitioners.
2. The Petitioners have filed the subject Petition on 28.02.2019 for the Review of the Commission's Order dated November 30, 2018 in Petition No. 33/2016 in the matter of approval of true up for FY 2013-14 for the Petitioners. The petitioner has also requested to condone the delay of 30 days in filing the subject review petition. The motion hearing in the matter was held on 28.03.2019 and the Commission vide daily order dated 30.03.2019 has condoned the delay and admitted the Petition. The Petitionersthrough the instant Petition have sought review on the following issues:
  - (i) Disallowance of Power Purchase Cost of Pre Company Period amounting to Rs 49.60 Crores for the period from FY 1993-94 to FY 2004-05.
  - (ii) Disallowance of terminal benefits including leave encashment but excluding Pension and Gratuity in totality.
  - (iii) Allowance of actual Taxes paid to Government for West Discom as Rs. 8.13 Crore as against Rs. 23.88 Crore claimed by the Petitioner.
  - (iv) Allowance of Bad and doubtful debt at 1% of the sales revenue i.e. Rs. 55.88 Crore for East Discom, Rs. 67.03 Crore for West Discom and Rs. 51.16 Crore for Central Discom.
  - (v) Non consideration of refund of Rs. 13.62 Crore to REC as part of other Income.
  - (vi) Non consideration of income received from MPAKVN as other Income.
3. The Commission vide letter dated 16.04.2019 sought certainadditional information in the matter and the same was submitted by the petitioners vide their letter dated 13.05.2019.

4. A review of the tariff order is admissible as per Regulations 40, 46 & 47 of the Conduct of Business) (Revision I) Regulations, 2016 and amendments issued therein. Regulation 40, 46, 47 of 2004 have been quoted below for ready reference.

***“40. Review of the decisions, directions and orders***

*(1) The Commission may on its own motion or on the application of any of the person or parties concerned, within 60 days from the date of making any decision, direction or order, review such decision, direction or order and pass such appropriate order as the Commission thinks fit.*

*(2) An application for such review shall be filed in the same manner as a petition under Chapter II of these Regulations subject to fulfillment of the following conditions, namely*

*(a) Discovery of new and important matter or 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 order was passed or;*

*(b) On account of some mistake or error apparent on the face of the record; or*

*(c) Any other sufficient reason.*

....

***46. General power to amend***

*The Commission may, at any time and on such terms as to costs or otherwise, as it may think fit, amend any defect or error in any proceeding before it, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the proceedings.*

....

***47. Power to remove difficulties***

*If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do anything not being inconsistent with the provisions of the Act which appears to it to be necessary or expedient for the purpose of removing the difficulties.”*

5. The contentions raised in the subject petition for review of the True-up order have been scrupulously scrutinized for establishing the maintainability of the subject petition in light of the aforementioned provisions. The Commission examined the Petitioners’ submissions issue-wise in light of the above mentioned provisions on which review has been demanded.

**Issue No. 1 – Disallowance of Power Purchase Cost of the period prior from FY 1993-94 to FY 2004-05 i.e. MPSEB period**

**Petitioner’s Submission**

6. The Petitioners have submitted that the Commission in its True-Up Order for FY 2013-14 has disallowed Rs 48.33 Crores (which is actually Rs 49.60 Crores without adjustment of Rs 1.27 Crores as disallowed in FY 2012-13) as submitted in explanatory note dated 15th Oct’2018 in response to Commission’s query made vide letter no. 1449 dated 29.09.2018. That the Petitioners submitted that in compliance to the GoMP order dated 31st May 2005, MPSEB was restructured and the companies have started functioning independently from the effective date of 01st June’2005. The provisional balance sheet of the companies was notified on 01st June’2005 post restructuring.
7. The Petitioners have submitted that the Commission issued the 1st True-up Order of the DISCOMs for FY 2005-06 (June to March) on 16th June’2008. As can be verified from below Table, the total impact on account of supplementary bills for period from FY 1993-94 to FY 2004-05 pertaining to erstwhile MPSEB was Rs. 49.60 Crores for MP State i.e. Rs 19.39 Crores for East DISCOM, Rs 15.37 Crores for Central DISCOM & Rs 14.84 Crores for West DISCOM respectively. Since, the supplementary bill amount is positive in nature, therefore it would be appropriate to pass through this debit amount to the consumers for its benefit to the DISCOMs.

<b>Year-wise &amp; DISCOM-wise Supplementary Bill Details (Rs Crores)</b>							
<b>Sr</b>	<b>Particulars</b>	<b>Claim pertaining to erstwhile MPSEB period (A)</b>					
		<b>FY 1993-94</b>	<b>FY 1994-95</b>	<b>FY 1995-96</b>	<b>FY 1996-97</b>	<b>FY 2004-05</b>	<b>Total</b>
<b>A</b>	<b>STATE – Total</b>	<b>4.61</b>	<b>14.29</b>	<b>22.77</b>	<b>7.82</b>	<b>0.12</b>	<b>49.60</b>
1	Variable Charge	-	-	-	-	0.12	0.12
2	Fixed Charge	4.61	14.29	22.77	7.82	-	49.48
3	Other Charge	-	-	-	-	-	-
<b>B</b>	<b>EAST DISCOM</b>	<b>1.80</b>	<b>5.59</b>	<b>8.90</b>	<b>3.06</b>	<b>0.05</b>	<b>19.39</b>
1	Variable Charge	-	-	-	-	0.05	0.05
2	Fixed Charge	1.80	5.59	8.90	3.06	-	19.34
3	Other Charge	-	-	-	-	-	-
<b>C</b>	<b>CENTRAL DISCOM</b>	<b>1.43</b>	<b>4.43</b>	<b>7.06</b>	<b>2.42</b>	<b>0.04</b>	<b>15.37</b>
1	Variable Charge	-	-	-	-	0.04	0.04
2	Fixed Charge	1.43	4.43	7.06	2.42	-	15.33
3	Other Charge	-	-	-	-	-	-
<b>D</b>	<b>WEST DISCOM</b>	<b>1.38</b>	<b>4.28</b>	<b>6.81</b>	<b>2.34</b>	<b>0.03</b>	<b>14.84</b>
1	Variable Charge	-	-	-	-	0.03	0.03
2	Fixed Charge	1.38	4.28	6.81	2.34	-	14.80
3	Other Charge	-	-	-	-	-	-

8. The Petitioners have further submitted that the supplementary bills for the MPSEB period (i.e. from 1993-94 to FY 2004-05) were received in the FY 2013-14, the same were not accounted in the provisional/opening balance sheet. The credit allowed through said bills falls on MPPMCL/MP TRADECO which again operates on no-profit no-loss, hence the said bills have to be accounted in the DISCOM's audited accounts.

#### **Commission's View**

9. The Commission vide order dated 25.04.2018 in Petition No. 62 of 2017 in the matter of approval of additional cost recovery on account of supplementary bills prior to FY 2012-13 raised by the Generators took view as follows:

*"1. The petitioners have jointly filed the subject petition seeking approval of additional cost recovery on account of supplementary bills raised by the Generators for period prior to FY 2012-13 which was deferred by the Commission during the true up exercise of FY 2012-13 as well as Review Petition filed therein. Subsequently, the petitioners have jointly filed another Petition (P.No.34) in the subject matter which was disposed of by the Commission vide its order dated 28.09.2017 with directions to file a fresh petition in view of the fact that the same was filed by the petitioners without verifying the records /data and also by erroneously considering the superseded orders of the Commission and ignoring the compliance orders those were subsequently issued pursuant to the Hon'ble APTEL's judgment with revised working in the matter.*

....

*6. However, the amount of Rs. 997.51 Crore thus worked out as against the claim of Rs. 999.85 Crore includes:*

....

*(ii) Rs. (-)1.26 Crore for the period prior to 01/06/2005:*

***Since this amount pertains to the period prior to the formation of the independent companies wherein the retail supply tariff orders were issued for MP State Electricity Board and since there had not been any tariff regulations in vogue, the true up was not carried out. Hence, prudence of such claims has not been established."***

10. Further, the Commission in the impugned order categorically took view as follows:

*"2.31 On the scrutiny of the revised claim submitted by the petitioner for the period from FY 2005-06 to FY 2012-13, it has been noted that petitioners' claims for these years are conforming to the methodology adopted by the Commission for respective years' true ups and there has not been any variation in amount claimed by the petitioners from the same as worked out by the Commission. Hence the claims of amount Rs. 1119.04 Crore*

*has been admitted by the Commission. However, the claims of amount Rs. 48.33 Crore pertaining to the period prior to the formation of the independent companies, wherein the retail supply tariff orders were issued for MP State Electricity Board and since there had not been any tariff Regulations in vogue, the true up was not carried out. Hence, prudence of such claims has not been established and not admitted by the Commission.”*

11. From above it can be observed that the Commission in the impugned order has categorically taken view on the disallowance of the Power Purchase Cost of the period from FY 1993-94 to FY 2004-05 and is line with the approach followed by the Commission in previous orders, which has attained finality. Accordingly, review on this issue sought by the Petitioner is devoid of merit and is not maintainable.

**Issue No. 2: Disallowance of terminal benefits including leave encashment but excluding Pension and Gratuity in totality**

**Petitioner’s Submission**

12. The Petitioners have submitted that the East Discom & West Discom in the true-up petition of FY 2013-14 have prayed for allowing expenses as ‘Terminal Benefits including leave encashment but excluding Pension and Gratuity’ which has actually been paid by the Licensee to the retirees, and which is not being claimed by or allowed as a pass through expenditure in MP Transco’s ARR. However the Commission has not allowed the amount claimed in totality. The details of the same are as given below:

**Table 1: Terminal Benefits claimed vis-a-vis approved by the Commission for FY 2013-14 (Rs. Crore)**

<b>Name of Discom</b>	<b>Amount Claimed</b>	<b>Amount Allowed</b>
East Discom	14.43	8.41
West Discom	17.92	12.41

13. The Petitioners have further submitted that as per the provisions of the clause 34.1 of Tariff Regulation, all the Terminal benefits paid by Licensee are to be treated as allowable expenditure for the purpose of ARR/Tariff.
14. Accordingly, the Petitioners have requested the Commission to allow the claimed terminal benefit amounting to Rs. 14.43 Cr and Rs. 17.92 Cr for East and West Discom respectively. However, the Central Discom has not made any claim in the review Petition for the same.
15. Regulation 34.1 of the MPERC Tariff Regulations, 2012, stipulates with regards to Employee Expense as follows:

*“34.1. Operation and Maintenance expenses shall be determined for the Tariff Period based on normative O&M expenses specified by the Commission in these Regulations.*

*The O&M expenses comprise of employee cost, repairs & maintenance (R&M) cost and administrative & general (A&G) cost. The norms for O&M expenses have been fixed on the basis of past audited figures of the Distribution Licensees. These norms exclude dearness allowance, pension, terminal benefits and incentive to be paid to employees, taxes payable to the Government, MPSEB expenses and fee payable to MPERC. The Distribution Licensee shall claim the dearness allowance, pension and terminal benefits, taxes payable to the Government and fees to be paid to MPERC separately as actual. The claim of expenses towards pension and terminal benefits shall be dealt with as indicated in the MPERC (Terms and Conditions for allowing pension and terminal benefits liabilities of personnel of Board and successor entities) regulations, 2012.”*

### **Commission’s View**

16. In this regard, the Petitioners (i.e. East, West and Central) were directed by the Commission to submit the reconciliation of head wise component of terminal benefit claimed in the true petition with justification for claiming the same under terminal benefits and clarify that the same is pertaining to the period after FY 2005-06.
17. The Petitioners submitted their reply on 13.05.2019 wherein the East & West Discoms have submitted the reconciliation of terminal benefit claimed with audited accounts and justification for claiming the same under terminal benefits as follows:

**Table 2: East Discom**

<b>Sr. no</b>	<b>Account Code</b>	<b>Particulars</b>	<b>Amount (Rs. Crore)</b>	<b>Justification</b>
1	75.820	Terminal Benefits (FPS) Board's Contribution	0.31	EPF Portion of Employer’s contribution under EPF scheme for Contractual and Society Employees has been paid during the FY 2013-14
2	75.810	Terminal Benefits (PF) Boards Contribution	3.69	EPS Portion of Employer’s contribution under EPF scheme for employee.
3	75.850	Provident Fund Inspection and Audit Charges	0.49	Inspection charges has been paid under EPF Scheme As per Employees Provident Funds Scheme, 1952.
4	75.446	Contribution towards New Pension Scheme	1.18	Share of Company under NPS scheme paid for Company Employees
5	75.880	Terminal Benefit G.T.I.S Contribution	0.32	At the time of retirement of the Board Employees amount paid to the retiree’s against GTIS Scheme.
6	75.881	Terminal Benefits Other	0.02	Other Terminal Benefit paid to Employees
7	75.617	Earned Leave Encashment	8.41	The Hon’ble Commission allowed Terminal Benefits expenses on “Paid and go basis”. The actual leave encashment paid in FY

Sr. no	Account Code	Particulars	Amount (Rs. Crore)	Justification
				2013-14 is Rs.8.41 Crore
8	<b>Total Amount Claimed (Revised)</b>		<b>14.43</b>	

**Table 3: West Discom**

Sr. no	Account Code	Particulars	Amount (Rs. Crore)	Justification
1	75.820	Terminal Benefits (FPS) Board's Contribution	0.25	EPF Portion of Employer's contribution under EPF scheme for Contractual and Society employee (Pandhana and Manasa) has been paid during the FY 2013-14
2	75.815	Insurance Premium paid for the group Insurance	0.04	Insurance Premium paid for group insurance of Company Employees in FY 2013-14.
3	75.810	Terminal Benefits (PF) Boards Contribution	1.39	EPS Portion of Employer's contribution under EPF scheme for Contractual and Society employee (Pandhana and Manasa).
4	75.850	Provident Fund Inspection and Audit Charges	0.28	Board and Company employee of the West Discom are exempted under PF Scheme. Therefore, Inspection charges have been paid under EPF Scheme As per Employees Provident Funds Scheme, 1952.
5	75.860	Terminal Benefit Non Contributory GTIS	0.87	Insurance Premium paid under GTIS for Board Employee
6	75.880	Terminal Benefit G.T.I.S Contribution	0.25	At the time of retirement of the Board Employees amount paid to the retiree's against GTIS Scheme.
7	75.881	Terminal Benefits Other	0.01	At the time of retirement of Board Employee amount paid to the retiree's against SCLIS Scheme.
8	75.884	Terminal Benefits under Annuity Scheme	0.22	Under the Annuity scheme a fixed amount is to be paid to the family pensioner till employee's superannuation period, employee who died before his superannuation period.
9	75.875	Company's Contribution to DCPS	2.68	Employer's contribution under NPS.NPS is mandatory to all employees joining services of Central Government (except Armed Forces) and Central Autonomous Bodies on or after 1st January 2004. Almost all State Governments have adopted NPS architecture and have implemented NPS mandatorily through Gazette Notifications for the State

Sr. no	Account Code	Particulars	Amount (Rs. Crore)	Justification
				Government/ Autonomous body employees joining on or after their respective cut-off dates. As per Gazette Notifications Employer's Contribution should be 10% of salary (Basic + DA). Thus, the West Discom has been paid Employer Contribution equal to 10% of Company cadre employee's salary in FY 2013-14.
10	75.617	Earned Leave Encashment	11.93	The Hon'ble Commission allowed Terminal Benefits expenses on "Pay and go basis". The actual leave encashment paid in FY 2013-14 is Rs.11.93 Crore instead of Rs.12.41 Crore, which is shown in audited account for FY 2013-14. Rs.12.41 Crore includes provisional amount. Actual amount is paid Rs. 11.93 Crore.
		<b>Total Amount Claimed</b>	<b>17.92</b>	

18. On analysis of the audited accounts, it was observed that East & West Discoms have booked provisions for Leave encashment, whereas the tariff Regulations allow payment of leave encashment on actual basis. Therefore, the Commission vide email dated 16.05.2019 sought details of the actual leave encashment paid during the year from Discoms, which was submitted by the Discoms on 17.05.2019 as Rs. 11.93 Crore for West Discom and Rs. 9.89 crore for East Discom, respectively.
19. Further, it is observed that the part of the terminal benefit claimed by the Petitioner is of nature to be covered under A&G expenses (i.e. Inspection and audit charges of Rs. 0.49 and Rs. 0.28 Crore for East and West Discom respectively), which is approved by the Commission on normative basis. Accordingly, considering that the Petitioner has provided sufficient justification for allowance of terminal benefit on actual basis, the Commission has allowed the terminal benefit as claimed by the Petitioner after reducing audit charges which are to be covered under the normative A&G expenses approved by the Commission as follows:

**Table 4: Terminal Benefits claimed vis-a-vis approved by the Commission for East Discomin Review order (Rs. Crore)**

Sr. no	Particulars	Claimed in Review Petition / Submission	Approved in review order
1	Terminal Benefits (FPS) Board's	0.31	0.31

Sr. no	Particulars	Claimed in Review Petition / Submission	Approved in review order
	Contribution		
2	Terminal Benefits (PF) Boards Contribution	3.69	3.69
3	Provident Fund Inspection and Audit Charges	0.49	0.00*
4	Contribution towards New Pension Scheme	1.18	1.18
5	Terminal Benefit G.T.I.S Contribution	0.32	0.32
6	Terminal Benefits Other	0.02	0.02
7	Earned Leave Encashment	9.89	9.89**
	<b>Total</b>	<b>15.91</b>	<b>15.41</b>

\*Note: Inspection and audit charges has not been allowed as the same are to be managed under the normative A&G Expense approved as per Regulations.

\*\*Note: Rs. 8.41 Crore was approved as Leave Encashment in Order dated 30.11.2018.

**Table 5: Terminal Benefits claimed vis-a-vis approved by the Commission for West Discom in Review order (Rs. Crore)**

Sr. no	Particulars	Claimed in Review Petition	Approved in review order
1	Terminal Benefits (FPS) Board's Contribution	0.25	0.25
2	Insurance Premium paid for the group Insurance	0.04	0.04
3	Terminal Benefits (PF) Boards Contribution	1.39	1.39
4	Provident Fund Inspection and Audit Charges	0.28	0.00*
5	Terminal Benefit Non Contributory GTIS	0.87	0.87
6	Terminal Benefit G.T.I.S Contribution	0.25	0.25
7	Terminal Benefits Other	0.01	0.01
8	Terminal Benefits under Annuity Scheme	0.22	0.22
9	Company's Contribution to DCPS	2.68	2.68
10	Earned Leave Encashment	11.93	11.93**
	<b>Total</b>	<b>17.92</b>	<b>17.64</b>

\*Note: Inspection and audit charges has not been allowed as the same are to be managed under the normative A&G Expense approved as per Regulations.

\*\*Note: Rs. 12.41 Crore was approved as Leave Encashment in Order dated 30.11.2018

**Issue No.3 - Allowance of actual Taxes paid to Government for West Discom as Rs. 8.13 Crore as against Rs. 23.88 Crore claimed by the Petitioner.**

**Petitioner's Submission**

20. The Petitioners have submitted that in line with the MPERC Tariff Regulation, 2012, the Petitioner is eligible for actual tax payable to government amounting to Rs. 23.88 Crore. The Petitioners have requested the Commission to allow the actual tax paid of Rs. 23.88 Crore as against Rs. 8.13 Crore approved by the Commission in the impugned order.
21. In this regard, the Petitioners were directed to submit the reconciliation of the tax paid to through their reply on 13.05.2019 have submitted that total government tax has been paid by Discom for Rs. 23.88 Crore including Rates and Taxes of Rs. 8.13 Crore, Entry Tax of Rs. 7.59 Crore and service tax against Reverse charge mechanism Rs. 8.16 Crore. The Petitioners further submitted that as per the notification no. 30/2012 of Government of India the concept of Reverse charge in Service tax under which service receiver is liable to pay tax for certain notified services. This notification came into force on the 1st day of July, 2012. Therefore, the Petitioners have requested to allow the tax paid under reverse charge. The Discom has paid the total tax under reverse charge mechanism Rs. 8.16 crores in FY 2013-14.

**Commission's View**

22. From above it is observed that the Petitioners have submitted the reconciliation of the rates and taxes paid to the government and entry tax, whereas the Petitioners have not submitted the reconciliation with regards to service tax paid under reverse charge mechanism with the audited account thereby not enabling the Commission to conduct prudence check of the services availed by the Petitioner. Further, the norms defined by the Commission for A&G Expense covers the payment of entry tax. Therefore, the Commission has only allowed rates and taxes as per actuals as Rs.8.13 Crore.

**Issue No.4 - Allowance of Bad and doubtful debt at 1% of the sales revenue i.e. Rs. 55.88 Crore for East Discom, Rs. 67.03 Crore for West Discom and Rs. 51.16 Crore for Central Discom.**

**Petitioner's Submission**

23. The Petitioners have submitted that the Commission has not allowed any provision for Bad and Doubtful debt for all the Discoms considering that the majority of Bad Debts have been written off against a scheme or withdrawal of false demand, delayed payment surcharge etc. The Petitioners have further submitted that the dues of the RE Cooperative Society for East Discoms of Rs. 184.57 Crore have been written off with the approval of BoD resolution which is again submitted for the consideration of the Commission. The

Commission in True Up of FY 2012-13 had allowed 1% of the revenue for East Discom considering the same. The Petitioners have also submitted that the three DISCOMs have identified all the arrears that in their opinion are not collectible and written them off in their Books of Accounts by taking Board approvals.

### **Commission's View**

24. Regulation 35 of the MPERC Tariff Regulations, 2012 stipulates as follows:

#### ***"35. Bad and doubtful debts***

*35.1. Bad and Doubtful Debts in the ARR shall be allowed based on actually written off bad debts in the past as per the available latest audited financial statements to the extent Commission considers it appropriate and shall be trued up during the true up exercise for the relevant year subject to a maximum limit of 1% of the yearly revenue."*

25. From above it can be observed that the Regulation allows bad debt actually written off to the extent of 1% of the yearly revenue subject to it being considered appropriate by the Commission. The Commission in the true up order for FY 2012-13 took view as follows:

*"2.73 The Commission has already taken a view in truing up order for previous years that the delayed payment surcharge is not an income. Therefore, the written-off amount against it shall also not be considered as expense. The Commission has also not considered principal amount written off under any scheme as it has been waived at their own behest.*

*2.74 Further, the Commission has noticed that Central Discom has not substantiated the claimed amount.*

*2.75 The regulations provide to admit bad debts as amount actually written-off subject to the maximum of 1% of the sales revenue. The Commission has noted that bad and doubtful debts actually written off by Central and West Discoms are lower than the maximum permissible limit i.e. 1% of sales revenue as specified in the regulations, while East Discoms has written off bad debts more than the maximum permissible limit specified in the regulations."*

26. Accordingly, in line with the Tariff Regulations and approach adopted by the Commission in previous true up orders, the Commission had not allowed bad debt for Central and West Discom as total amount of the bad debt has been written off against some scheme or against withdrawn / false demand. Further, only East discom has written off dues of Rs. 184.57 Crore, for which it had not submitted any details of the approval taken from its BoD or efforts made for its recovery in true up Petition. Therefore, the same was not admitted by the Commission in the impugned order. The relevant extract of the impugned order is as follows:

*“2.71 From above it can be observed that majority of the debt has been written off against a scheme or withdrawal / false demand, whereas some write off is against dues and delayed payment surcharge. The Commission has already taken view in True-up Order for previous years that the delayed payment surcharge is not an income. Therefore, the written- off amount against it shall also not be considered as expense. Further, principal amount written off under any scheme or withdrawn / false demand as the same has been waived off at the Petitioners own behest.*

*2.72 With regards to write off against dues, it is observed that none of the Discom has provided any details about the efforts made for the recovery of the dues or approval taken from the Board of Directors. Accordingly, the Commission has not admitted any Bad Debt for FY 2013-14*

... “

27. The Petitioners in the Review Petition have submitted that it has enclosed the BoD approval for East Discom for writing off the dues of the RE cooperative society, however, the same was found missing. Accordingly, the Petitioner was asked to submit the BoD approval letter for the same in deficiency note raised by the Commission, which was subsequently submitted by the Petitioner through its letter no. 107 dated 13.05.2019.
28. Accordingly, in view of the Regulation 40 (2) (a) of the Conduct of Business Regulations, 2016 and its amendments thereof, the Commission approves the bad debt at 1% of the revenue for East Discoms at Rs. 55.88 Crore (i.e. lesser of the Dues written off of Rs. 184.57 Crore and 1% of the revenue Rs. 55.88 Crore) upon submission of the BoD approval for clearing the bad debt pertaining to RE cooperative society of Rs. 184.57 Crore as follows:

**Table 6: Bad Debt admitted by the Commission for FY 2013-14 (Rs. Crore)**

Particulars	East	West	Central	Total for the State
Debt written against scheme	400.51	260.90	725.10	1386.51
Demand Withdrawn / false demand	-	0.04	213.09	213.13
Surcharge written Off	-	0.05	-	0.05
Written off against dues	184.57	-	-	184.57
<b>Total</b>	<b>585.08</b>	<b>260.99</b>	<b>938.19</b>	<b>1784.26</b>
Debt written off under consideration	184.57	0.00	0.00	184.57
1% of sales revenue	55.88	67.03	51.16	174.07
<b>Admitted</b>	<b>55.88</b>	<b>0.00</b>	<b>0.00</b>	<b>55.88</b>

**Issue No. 5 – Non consideration of refund of Rs. 13.62 Crore to REC as part of other Income.**

**Petitioner’s Submission**

29. The Petitioners have submitted that the West Discom had received funds from Rural Electrification Corporation (REC) under RGGVY scheme and had earned interest through

investment in FDR's in FY 2012-13. However, the REC vide letter No. REC/RGGVY/Interest/2013-14/673/6916 dated 20.11.2013 asked the West Discom to refund such interest income. Accordingly, the West Discom has refunded the amount of Rs. 13.62 Crore to REC in FY 2013-14. However, the Commission has considered the said amount as other income.

### **Commission's View**

30. The Petitioners in Petition No. 30/2016, 34/2016 and 26/2016 filed by East Discom, West Discom and Central Discom respectively, for review of true up order dated 13.01.2016 of FY 2012-13 had sought allowance of reduction of Other Income to the tune of Rs. 13.62 Crore for West Discom, which was not considered by the Commission in view of the following:

*"56. West Discom submitted it has to refund the interest earned on RGGVY funds to the amount of Rs. 13.62 Crore considered by the Commission as other income in true-up of FY 2012-13. Therefore, interest earned on RGGVY funds to the amount of Rs. 13.62 Crore may not be considered as considered as other income.*

.....

*57. The Petitioners requested the Commission for reconsideration for treatment of Non-tariff Income as per the above submissions.*

### **Commissions View:**

*58. The Commission has admitted the other expenses and other Income as per the prevailing tariff Regulations. Further the Commission admitted other expenses and otherIncome are in line with the judgement of Hon'ble APTEL judgment of 15 September 2015 in appeal nos. 234, 270, 271 and 276 of 2014 as reproduced below:*

*"21.3 We have considered the matter and are in agreement with the State Commission."*

*59. Therefore, the review in this regards is not maintainable."*

31. Further, on analysis of the audited account for the FY 2012-13, it cannot be established that the amount of Rs. 13.62 Crore was included as part of other income. Therefore the Petitioners were directed to submit the reconciliation of other income of FY 2012-13 with the audited accounts of FY 2012-13 of West Discom to substantiate that the interest earned through REC funds was included in other income.
32. In reply the Petitioners submitted that the West Discom has received funds from Rural Electrification Corporation under RGGVY scheme and has earned interest income from temporary investment of its surplus fund. The interest income so earned was treated as 'other income' of licensee in the earlier year (FY 2006-07 to FY 2012-13). As per

instructions of REC vide letter no. REC/RGGVY/Interest/2013-14/673/6916 dated 20.11.2013, the petitioner has to refund the interest earned on such deposits (amounting to Rs.13.62 Crore for the period up to 2012-13) to REC in FY 2013-14. Since in the earlier years, the said amount is treated as other Income in form of interest on FDR and now in the FY 2013-14 amount is refunded to the REC. Claim of said amount shall be granted to petitioner.

33. From above it can be observed that the Petitioner has claimed the amount refunded to REC which was considered as other income (interest earned on FDRs) in years from FY 2006-07 to FY 2012-13. The order for the said years has already attained finality. Further, the Commission has admitted the other income for FY 2013-14 considering the actual other income reflected in the audited account of FY 2013-14, which is in line with the MPERC Tariff Regulations, 2012, thereby not allowing actual interest expense which is being allowed as normative as per provision of the Regulations. However, since the Petitioner has refunded the amount of Rs. 13.62 Crore to REC which has been considered as other income in previous years, the Commission has allowed the same to be reduced from the other income for FY 2013-14.

#### **Issue No. 6 –Non consideration of income received from MPAKVN as other Income**

##### **Petitioner’s Submission**

34. The Petitioners have submitted that the West Discom has received income of Rs. 3.82 Crore from MPAKVN for extending its service towards Operation and Maintenance of MPAKVN Distribution Assets, which was intimated to the Commission vide letter no MD/WZ/05/9376 dated 29th April 2013. The Petitioners have further, submitted that Clause 40.2 of the Tariff Regulation provides that “Revenue from other business shall be treated as income to the extent authorized by the Commission under Section 41 of the Act.

The Petitioners have submitted that as per Section 51 of the Electricity Act, 2003, “A Distribution Licensee may, with prior intimation to the Appropriate Commission engage in any other business for optimum utilization of its assets”. Accordingly, the Petitioner has requested the Commission to not to consider this amount of Rs. 3.82 Crore as income from other business.

##### **Commission’s View**

35. Regulation 40 of the MPERC Tariff Regulations, 2012 provides as follows:

###### ***“40. Other income***

*40.1. A schedule for other income as provided in the schedule of Miscellaneous Charges and General Charges under MPERC (Details to be furnished by licensees for*

*determination of Tariff and manner of making an application) Regulation 2004 as amended from time to time shall be classified under 'Other Income'.*

*....”*

36. Further, Section 51 of the Electricity Act, 2003 stipulates as follows:

***“Section 51. (Other businesses of distribution licensees):***

*A distribution licensee may, with prior intimation to the Appropriate Commission, engage in any other business for optimum utilisation of its assets:*

*Provided that a proportion of the revenues derived from such business shall, as may be specified by the concerned State Commission, be utilised for reducing its charges for wheeling:*

*Provided further that the distribution licensee shall maintain separate accounts for each such business undertaking to ensure that distribution business neither subsidises in any way such business undertaking nor encumbers its distribution assets in any way to support such business.*

*Provided also that nothing contained in this section shall apply to a local authority engaged, before the commencement of this Act, in the business of distribution of electricity.”*

37. From above, it can be observed that as per the provision of the MPERC Tariff Regulations, 2012 and its amendments thereof that the regulations do not provide for sharing of the income between the Licensee and the consumers and therefore the entire income earned from the other business is to be utilized by the Licensee for reduction of tariff.
38. Further, as per Regulation, the Petitioner has not submitted the separate accounts for its other business. Accordingly, the income from other business has been considered as part of other income and the entire amount is reduced from the ARR approved for FY 2013-14 in the impugned order.
39. Accordingly, as per Regulation 40 of the Conduct of Business Regulations, 2016 and its amendments thereof, the issue raised by the Petitioner is neither on the grounds of error apparent on the face of the record, nor discovery of any important matter or evidence. Therefore, the issue raised by the Petition is devoid of merit and is not considered.
40. Summary of the claimed vis-à-vis approved by the Commission in this order is as follows:

**Table 7: Summary of claim vis-à-vis approved by the Commission in this order for East Discom (Rs. Crore)**

Particulars	Approved in true up order dated 30.11.2018	Claimed in Review Petition	Approved in Review Order
Power Purchase for Pre company period	-	19.39	-
Terminal Benefits	8.41	15.91	15.41
Bad & Doubtful Debt	-	55.88	55.88

**Table 8: Summary of claim vis-à-vis approved by the Commission in this order for West Discom (Rs. Crore)**

Particulars	Approved in true up order dated 30.11.2018	Claimed in Review Petition	Approved in Review Order
Power Purchase for Pre company period	-	14.84	-
Terminal Benefits	12.41	17.92	17.64
Taxes Paid to Government/ fees paid to MPERC	8.13	23.88	8.13
Bad & Doubtful Debt	-	67.03	-
Non consideration of refund to REC as part of other Income	-	13.62	13.62
Non consideration of income received from MPAKVN as other Income	-	3.82	-*

\*Note- Income from MPAKVN has been considered as other Income.

**Table 9: Summary of claim vis-à-vis approved by the Commission in this order for Central Discom (Rs. Crore)**

Particulars	Approved in true up order dated 30.11.2018	Claimed in Review Petition	Approved in Review Order
Power Purchase for Pre company period	-	15.37	-
Bad & Doubtful Debt	-	51.16	-

41. Accordingly, the summary of the revised true up amount of FY 2013-14 allowed in this order is as follows:

**Table 10: Summary of revised true up allowed in this order (Rs. Crore)**

Sr. No.	Particulars	Amount
A	True Up amount approved in order dated 30.11.2018	3837.76
B (i)	Amount approved in this order against Bad &	55.88

Sr. No.	Particulars	Amount
	Doubtful Debt	
(ii)	Amount approved towards Refund of interest earned on RGGVY fund (Considered as other income)	13.62
(iii)	Amount approved against Terminal Benefits	12.23
<b>Sub-Total B (i+ii+iii) (allowed in this order)</b>		<b>81.73</b>
<b>Total (A+B) (Total true up amount for FY 2013-14)</b>		<b>3919.49</b>

42. Based on the above, the revised true up amount approved by the Commission for FY 2013-14 is as follows:

**Table 11: Revenue Surplus/(Deficit) admitted in True-up of ARR for FY 2013-14 (Rs. Crore)**

Particulars	East Discom	West Discom	Central Discom	Total for State
<b>INCOME</b>				
Tariff Income	5,089.87	5,781.08	4,334.27	15,205.22
Non-tariff income (meter rent, recoveries for theft of power, wheeling/U.I. charges recovery, Misc. charges from consumers)	49.60	67.87	79.57	197.04
Other Income	187.70	222.97	296.71	707.38
Less : Delayed Payment Surcharge	93.55	119.04	187.94	400.53
Net other income (excluding delayed payment surcharge)	94.15	103.93	108.77	306.85
Subsidy	497.90	921.54	781.33	2,200.77
<b>Total Income (A)</b>	<b>5,731.51</b>	<b>6,874.42</b>	<b>5,303.94</b>	<b>17,909.87</b>
<b>EXPENSES</b>				
<b>Power Purchase</b>				
Power Purchase Cost	4,766.49	6,209.52	5,062.95	16,038.96
MP Transco Charges	680.55	857.97	533.12	2,071.64
<b>Total Power Purchase (Incl. Transmission) (B)</b>	<b>5,447.04</b>	<b>7,067.49</b>	<b>5,596.07</b>	<b>18,110.60</b>
<b>O&amp;M Expenses (Net of Capitalisation)</b>				
Employee Expenses	344.00	325.00	303.00	972.00
DA	264.62	242.03	239.27	745.92
Terminal Benefits	15.41	17.64	17.02	50.07
Arrears	34.00	30.00	29.52	93.52
A&G Expenses	112.78	92.71	85.14	290.63

Particulars	East Discom	West Discom	Central Discom	Total for State
R&M Expenses	98.19	88.94	98.17	285.30
Other expenses (including Taxes & MPERC Fees)	3.51	8.13	1.04	12.68
<b>Total O&amp;M ©</b>	<b>872.50</b>	<b>804.45</b>	<b>773.16</b>	<b>2,450.12</b>
<b>Other Expenses</b>				
Depreciation	92.46	85.22	95.13	272.81
Interest & Financing Charges on Project Loans	111.83	67.78	138.85	318.47
Interest and Finance Charges on working capital loans	0.00	0.00	0.00	0.00
Interest on Consumer Security Deposit	43.19	54.12	45.21	142.52
Return on Equity	171.74	143.76	175.43	490.93
Bad & Doubtful Debts	55.88	0.00	0.00	55.88
Any Other Expense	-6.66	6.04	-11.35	-11.97
<b>Total Other Expenses (D)</b>	<b>468.44</b>	<b>356.92</b>	<b>443.27</b>	<b>1,268.64</b>
<b>Total Expenses E = (B + C + D)</b>	<b>6,787.99</b>	<b>8,228.87</b>	<b>6,812.50</b>	<b>21,829.35</b>
<b>Revenue Surplus / (Gap) F = (A-E)</b>	<b>-1,056.48</b>	<b>-1,354.45</b>	<b>-1,508.56</b>	<b>-3,919.49</b>

43. The Petitioner is therefore directed to reckon the aforesaid revised Gap amount on true up of FY 2013-14 in their Retail Supply Tariff Petition for FY 2019-20 for consideration of the Commission. With the above directions, the petition is disposed of.

**(Mukul Dhariwal)**  
Member

**(Dr. Dev Raj Birdi)**  
Chairman