

**MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION
BHOPAL**

Sub: In the matter of Petition under Sections 142, 146 and 149 of the Electricity Act, 2003 read with Clauses 1.29 and 1.32 of General Terms and Conditions of High-Tension Tariff of the Tariff Order dated 31.03.2022 in Petition No. 04/2022 and Regulations 9, 10 and 52 of the Conduct of Business Regulations 2016 seeking directions against Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd. For failure to implement this Hon'ble Commission & Tariff Order dated 31.03.2022 in Petition No. 04/2022 in the matter Determination of Aggregate Revenue Requirement (ARR) for Control Period for FY 2022-23 to FY 2026-27 and Retail Supply Tariff for FY 2022-23.

(P.No. 67/2022)

ORDER

(Date of Order: 30th December' 2022)

M/s. Ultra Tech Cement Limited - **Petitioner**

Versus

MP Paschim Kshetra Vidyut Vitran Co. Ltd (West Discom) -
Respondent

Shri Amit Kapoor, Advocate appeared on behalf of the Petitioner. Shri Vijay B. Sharma, Advocate and Shri Nirmal Sharma, SE (Comm) appeared on behalf of Respondent.

2. The subject petition has been filed by the Petitioner seeking directions against Respondent to implement the provisions of Retail supply Tariff Order issued on 31.03.2022 in the matter of determination of Aggregate Revenue Requirement (ARR) for Control Period for FY 2022-23 to FY 2026-27 and Retail Supply Tariff for FY 2022-23 by providing petitioner with the rebate for new HT connections of HV3 Consumer as per specific terms and conditions (e) of tariff schedule of said order. The petitioner has made following prayer in its petition :-
 - i. *Hold and declare that the Respondent has failed to comply with and implement this Commission's Tariff Order dated 31.03.2022 in Petition No. 04/2022 by failing to grant rebate for new HT connection in terms of specific terms and conditions no. (e) for HV – consumers;*

- ii. *Take appropriate action against Respondent for non-compliance and non-implementation of this Commission's Tariff Order dated 31.03.2022 in Petition No. 04/2022 more particularly in terms of Sections 142, 146 and 149 of the Electricity Act;*
- iii. *Quash Respondent's letters dated 17.05.2022 and 15.07.2022 and direct Respondent to forthwith grant rebate of new HT connection to the Petitioner in terms of specific terms and conditions no. (e) for HV – consumers in the Tariff Order dated 31.03.2022;*
- iv. *Direct Respondent to grant rebate of INR 1,68,73.100/- (Indian Rupees One Crore Sixty Eight Lacs Seventy Three Thousand One Hundred only) to the Petitioner towards new HT connection in terms of in terms of specific terms and conditions no. (e) for HV – consumers in the Tariff Order dated 31.03.2022, for the period 23.04.2022 till 31.08.2022, along with applicable interest/ carrying cost;*

The brief facts of the case are as under:

3. The Petitioner was a permanent HT consumer of the West Discom till 30.12.2019 and was permanently disconnected from 31.12.2019. During this period, the Petitioner's contract demand ranged from 30 MVA to 5MVA depending on its power requirements.
4. This permanent disconnection was pursuant to the fact that the Petitioner was meeting its primary power requirements from its onsite thermal Captive Generating Plant and from third party Open Access.
5. From 30.12.2019 onwards, the Petitioner was availing power under a standby connection to meet its sudden/ exigent power requirements on account of shutdown of its Captive Generating Plant.
6. It is stated that the Petitioner availed a new HT connection on 23.04.2022, by entering into a new agreement with the Respondent for availing HT/ EHT supply of 20 MVA.
7. Accordingly, in view of the following provisions of the Tariff Order, on 27.04.2022, the Petitioner requested Respondent for providing rebate for its new HT connection under special terms and conditions no. (e) for HV – 3 consumers in the Tariff Order. :

*“(e) **Rebate for new HT connections:** A rebate of Rs 1 per Unit or 20% whichever would be less is applicable in energy charges for new connection for the consumption recorded. The rebate shall be allowed upto FY 2022-23 from the date of connection for such new projects for which agreements for availing supply from licensee are finalized during and after FY 2016-17.*

Provided that no rebate shall be applicable for connections obtained by virtue of change in ownership in existing connection or by reconnection.

Provided also that new connection on the permanently disconnected premises shall only be eligible for such rebate, if, the application for new service connection on such premises is received not before the expiry of six months from the date of its permanent disconnection.

The consumer availing this rebate shall not be entitled for the rebate of incremental consumption under clause (d) above.”

8. On 17.05.2022, the Respondent Discom responded to the Petitioner stating that the new HT connection of 20 MVA does not meet the requirements of the Tariff Order for grant of rebate under special terms and conditions no. (e) of the Tariff Order.
9. In view of the said rejection, the Petitioner contested the same vide letter 17.06.2022 to the Respondent Discom. However, by its letter dated 15.07.2022, the Respondent has rejected the Petitioner's request for rebate .
10. It is submitted by petitioner that denial of rebate for new HT connection by the Respondent amounts to willful and deliberate non-implementation/ compliance with the Commission's Tariff Order. Hence, aggrieved by Respondent failure to abide by and implement the Tariff Order by providing the Petitioner with rebate for its new HT connection, petitioner has filed the present Petition.
11. The petitioner being aggrieved by the Respondent has raised the following grounds as reproduced below :-
 - *In terms of Specific Terms and Conditions no. (e) in the Tariff Schedule for HT – 3 category consumers of this Commission's Tariff Order, consumers availing a new HT connection are entitled to rebate of Rs. 1 per unit or 20% whichever is lower on applicable energy charges for the consumption recorded. In terms of 2nd Proviso to condition (e), a new HT connection is entitled to rebate provided the application for new connection is made 6 months after the date of permanent disconnection.*
 - *West Discom has denied the Petitioner's request for the above rebate on the premise that qualifying requirement under 2nd Proviso to condition (e) has not been met in the present case. It is submitted that the above rejection is contrary both in law and facts.*
 - *From the factual narration set out in Para 10 above, the following is noteworthy:*
 - a. *From 24.03.1999 to 31.12.2019, the Petitioner was an HT/ EHT consumer of the West Discom. During this period the Petitioners contract demand ranged from 30000 KVA to 5000 KVA depending on its power requirements.*
 - b. *On 31.12.2019, the Petitioner's HT/ EHT connection was permanently disconnected by the West Discom as stated in its letter of even date. The interconnecting breaker and isolator were cut off and sealed as noted in the letter. This permanent disconnection was pursuant to the fact that the Petitioner was meeting its primary power requirements from its onsite thermal CGP and from third party Open Access.*
 - c. *On and from 30.12.2019, the Petitioner was availing standby support from the West Discom. In May 2020, the Petitioner availed power supply under the*

standby agreement for the last time. From June 2020, the Petitioner did not avail power from the West Discom at all.

- d. *On 23.04.2022, the Petitioner has entered into a new permanent HT connection with the West Discom for 20000 KVA which has been accorded consumer no.H3471000571*
- *Chapter IV of the CGP Regulations, inter alia, lays down the following governing framework for standby support:*
 - a. *Standby support is available only to CGPs/ captive users who are a separate class of consumer under the Electricity Act [as held by Hon'ble Supreme Court in Maharashtra State Electricity Distribution Company Limited v. JSW Steel Limited & Ors. 2021 SCC OnLine SC 1220 (Para 11 – 13)]. In other words, standby support is a special dispensation provided to CGPs and captive users only. It is not available to Open Access consumers. Pertinently, this is also recorded in the Recital to the Standby Support Agreement dated 30.12.2019.[Regulation 4.1 – 4.3]*
 - b. *In order to avail power under standby support, the captive user is required to make a written request to the distribution licensee. On receipt of such request, the distribution licensee is required to close the inter-connecting breaker with 2 hours. Once the requirement for standby power ceases, the captive user is required to inform the distribution licensee who in turn shall re-open the interconnecting breaker within 2 hours. This clarifies that the purpose of standby support is to meet a captive users' exigent power requirements. [Regulation 4.10]*
 - c. *The captive user is required to bear energy and fixed charges for the power consumed during the standby period. These charges are the same as applicable for temporary connection. [Regulation 4.16]*
- *Therefore, standby connection is not akin to a permanent connection availed from a distribution licensee as a consumer as referred to in specific terms and conditions (e) for HV – 3 consumers in this Hon'ble Commission's Tariff Order. HT connection on the other hand is a permanent connection for consumers.*
- *In other words, on a conjoint reading of the CGP Regulations and the facts of the present case, it is clear that:*
 - a. *The Petitioner was a permanent HT consumer of the West Discom till 30.12.2019 and was permanently disconnected on and from 31.12.2019.*
 - b. *Thereafter, the Petitioner was availing power under a temporary connection (standby connection) to meet its sudden/ exigent power requirements on account of shutdown of its CGP.*
 - c. *The Petitioner has availed a new HT connection after two years and four months i.e., much after the period of 6 months provided under 2nd Proviso to condition (e) for HV – 3 consumers in the Tariff Order.*
- *In view of the above it is clear that, the Petitioner is entitled to rebate for new HT connection in terms of this Hon'ble Commission's Tariff Order. West Discom's denial of rebate to the Petitioner despite the fact that the Petitioner has availed a*

new HT connection after more than two years, is in teeth of this Hon'ble Commission's Tariff Order which clearly holds that rebate for new HT connection will be granted so long as the application for grant of new HT connection is made after six months from the date of its permanent disconnection.

- *Merely because the standby support agreement/ connection was surrendered on 23.04.2022, does not imply that the Petitioner was permanently disconnected from the grid on 23.04.2022. In the absence of an HT connection agreement (which is a procedural requirement for permanent connection with the Distribution Licensee), it is incorrect for the West Discom to contend that the Petitioner is permanently connected to the West Discom by availing standby support.*
- *However, despite the West Discom being aware of the factual and legal position, it has rejected the Petitioner's claim for rebate. West Discom's rejection amounts to willful and intentional non-implementation and non-compliance of this Hon'ble Commission's Tariff Order.*
- *In terms of Sections 142, 146 and 149 of the Electricity Act, non-compliance of orders or directions of this Hon'ble Commission is a punishable offence. The facts of the present case make it clear that West Discom, despite being aware of the legal and factual position, has failed to comply with and implement this Hon'ble Commission's Tariff Order which entitles the Petitioner to grant of rebate for new HT connection despite the fact that the Petitioner meets all the requirements for said rebate.*

12. At the motion hearing held on 11/10/2022 , after hearing the petitioner, the Commission admitted the petition and directed to issue notice to Respondent. The Respondent, subsequently submitted its reply and has made following broad submission:

i. *The Commission passed Tariff Order Dated 31/03/2022, the Clause (e) is reproduce as under -*

“(e) Rebate for new HT connections: A rebate of Rs 1 per Unit or 20% whichever would be less is applicable in energy charges for new connection for the consumption recorded. The rebate shall be allowed upto FY 2022-23 from the date of connection for such new projects for which agreements for availing supply from licensee are finalized during and after FY 2016-17.

Provided that no rebate shall be applicable for connections obtained by virtue of change in ownership in existing connection or by reconnection.

Provided also that new connection on the permanently disconnected premises shall only be eligible for such rebate, if, the application for new service connection on such premises is received not before the expiry of six months from the date of its permanent disconnection.

The consumer availing this rebate shall not be entitled for the rebate of incremental consumption under clause (d) above.”

- ii. Petitioner surrender his stand by connection on dated 23.04.2022 and same day dated 23.04.2022 petitioner availed permanent HT Connection on his premises. The Discom has rightly disallowed rebate sought by Petitioner for new HT Connection under Tariff Order for FY-2022-23 Clause (e) of Specific Terms and Conditions HV-3 as the consumer **has not availed any new HT connection**. Consumer has merely changed its supply status from “Stand By” HT connection to “Permanent HT Connection”.

Hon’ble commission held in his Tariff Order Clause (e) The rebate shall be allowed upto FY 2022-23 from the date of connection “for such new projects” for which agreements for availing supply from licensee are finalized during and after FY 2016-17. It is Crystal clear that clause (e) rebate allowed only for new projects and it is admitted fact that petitioners project is in operation since 1999 and it is also mention in Petitions Page No. 4 Para (II) brief facts clause 8 sub-clause (b) so petitioners project can not allowed Tariff Order rebate.

- iii. The claim of petitioner that the “Stand By” HT connection is akin to “Temporary”, is totally wrong and baseless as evident from various following regulations.

Definition. For Temporary Connection: As per Clause 2(ss), “Temporary Connection” in MP Supply Code 2021;

Clause 2 (ss) “Temporary connection” means an electricity connection required by a person for meeting his temporary needs such as-

- i. For construction of residential, commercial and industrial complexes including pumps for dewatering;
- ii. For illumination during festivals and family functions;
- iii. For threshers or other such machinery including agriculture pump sets;
- iv. For touring cinemas, circuses, fairs, exhibitions, meals or congregation.

For “Stand By” HT Connection: For “Stand By “HT connections, such conditions are not required.

(A) **Time period.**

For Temporary Connection: As per Section E (Temporary Power Supply) ,Clause 4.48 of MP Electricity Supply Code 2021, Any person requiring power supply for the purpose that is temporary in nature, may apply for temporary power supply for a period of less than two years in the Form as required by the Licensee. The period of temporary connection can be extended up to five years for construction of buildings\ power plants and for the purpose of setting up of industrial units. Requisition for temporary supply shall normally be given 7 days before the day when supply is required for loads up to 10 KW and 30 before for higher the said loads. Under no circumstances, permanent connections shall be given for constructions.

For “Stand By” HT Connection: For “Stand By “ HT Connections **NO LIMIT** of time period is stipulated in Regulation RG {30(I) of 2009}.

(B) **Agreement.**

For Temporary Connection: No Agreement is executed between Temporary Consumer and Licensee.

For “Stand By” Connection: As per Regulation MPERC (POWER PURCHASE AND OTHER MATTERS WITH RESPECT TO CONVENTIONAL FUEL BASED CAPTIVE POWER PLANTS) REGULATIONS, (Revision-I) 2009 {RG-30(I) of 2009}, “Clause 4.6 :- For the purpose of Stand-by support, such User and the Distribution Licensee or M.P. Power Trading Co. on behalf of the Distribution Licensee shall have to enter into an agreement for such support.....”.

(C) Applicability of Tariff

For Temporary Connection: As per Retail Tariff Order for FY 2022-23, General Terms and Conditions of HT Tariff, Clause 1.19 :-“The character of temporary supply shall be as defined in the M.P. Electricity Supply Code, 2021 as amended from time to time. If any consumer requires temporary supply then it shall be treated as separate service and charged subject to the following conditions.

- (a) Fixed Charges and Energy Charges shall be charged at 1.25 times the normal tariff. The fixed charges shall be recovered for the number of days for which the connection is availed during the month by prorating the monthly fixed charges. Month shall be considered as the number of total days in that calendar month.
- (b) The consumer shall ensure minimum consumption (kWh) as applicable to the permanent consumers on pro-rata based on number of days.
- (c) The billing demand shall be the demand requisitioned by the consumer or the highest monthly maximum demand during the period of supply commencing from the month of connection ending with the billing month, whichever is higher. For example..... ”

For Stand-by support: As per regulation MPERC (POWER PURCHASE AND OTHER MATTERS WITH RESPECT TO CONVENTIONAL FUEL BASED CAPTIVE POWER PLANTS) REGULATIONS, (Revision-I) 2009 {RG-30(I) of 2009}, Part A, Clause 4.14 to 4.21 :-

Charges for Stand-by support

4.14 In case of such Users, the maximum demand that can be contracted under Stand-by support cannot be more than the total rated capacity of all the captive generating units of the CPP holder.

4.15 Wherever an agreement for Stand-by support exists between the User and the Licensee of his area of supply, the User shall be required to pay to the Licensee charge equal to Rs. 31 per KVA per month or part thereof towards commitment charges applied on the capacity (in KVA) contracted on 33 KV and Rs. 25 per KVA per month or part thereof towards commitment charges applied on the capacity (in KVA) contracted on 132 KV as Stand-by support from the Distribution Licensee.

Provided that the charges referred to above shall apply uniformly every month commencing from the date of applicability of the stand-by agreement, irrespective of whether the User avails Stand-by support or not.

Provided further that the above commitment charges are applicable up to the control period ending on 31.03.2012, and shall be reviewed thereafter.

4.16 In addition to above commitment charges, the User shall also be required to bear energy charges and fixed charges for the power consumed during period of Stand-by support which shall be same as applicable for temporary connection as approved by the Commission for corresponding category in its tariff orders for time to time.

4.17 The fixed charges shall be applied on the maximum demand at any 15 minutes time block covered under stand-by period subject to minimum of 90% of the contract demand. The standby period for this purpose shall be reckoned maximum up to 30 continuous days. The energy charges shall be applied on the total energy consumed across all time-blocks covered under stand-by period.

4.18 In case the recorded maximum demand at the CPP premises exceeds the Stand-by contract demand, the excess demand recorded shall be billed for at 2 times the fixed charges arrived at from Clause 4.17.

4.19 The Stand-by support availed by the User shall be entitled for power factor incentives and penalties as approved by the Commission for retail supply consumers in its Tariff Order. However, the load factor concession shall not be applicable.

4.20 There shall be no minimum energy charge on power consumed under Stand-by support for such Users.

4.21 In case the Stand-by support is availed by the User for more than one time in a particular month, the fixed charges shall be billed for the first time only. As evident from the above regulations the supply & billing procedure and concept of "Temporary Connection" is totally different from "Stand By" HT Connection.

- The petitioner stated that west discom is not complying tariff order dated 31.03.2022 and is in offence under section 142, 146 and 149 of Electricity Act 2003, is totally wrong. West discom has wholly complied tariff order passed by Hon'ble Commission dated 31.03.2022 and petitioner is liable to heavy cost for deliberately and maliciously putting the facts.*

13. At the next hearing held on 09.11.2022, the Counsel for the petitioner sought ten days time to file rejoinder on the reply filed by the Respondent which was granted by the Commission.
14. At the hearing held on 22/11/22, the Commission heard final arguments and granted 10 days time to both the parties to file their written submissions, if any. The case was reserved for order. Subsequently, the petitioner has filed rejoinder and has made following broad submission.

A. Petitioner has applied for new HT connection well after the six months period contemplated under 2nd Proviso to condition (e) for HV-3 category consumers

- *In terms of Specific Terms and Conditions no. (e) in the Tariff Schedule for HV-3 category consumers of this Hon'ble Commission's Tariff Order, consumers availing a new HT connection are entitled to rebate of Rs. 1 per unit or 20%, whichever is lower, on applicable energy charges for the consumption recorded. Further, 2nd Proviso to condition (e) lays down the condition to be met for grant of this rebate – a new HT connection is entitled to rebate if the **application for new connection is received at least 6 months after the date of permanent disconnection.***
- *It is submitted that West Discom has denied the Petitioner's request for rebate on the premise that qualifying requirement under 2nd Proviso to condition (e) has not been met in the present case. This is contrary to both law and facts:*
 - a. *From 1999 to 2019, the Petitioner was an HT consumer of West Discom. This connection was accorded **Consumer No. 3555904000.***
 - b. *In March 2008, the Petitioner commissioned a 2 x 23 MW CGP for the purpose of meeting its power requirements.*
 - c. *On 12.10.2019, the Petitioner applied to West Discom seeking stand by support of 5000 KVA in terms of this Hon'ble Commission's CGP Regulations. By letters dated 27.11.2019 the Petitioner's request for standby support was accepted by West Discom. The Standby support was accorded consumer no. H4613989677.*
 - d. *In view of the fact that the Petitioner was off taking power from its CGP, on 28.11.2019, the Petitioner wrote to West Discom to permanently surrender its HT connection contract demand of 5000 KVA.*
 - e. *On 31.12.2019 the Petitioner's HT/EHT connection (**Consumer No. 3555904000**) was permanently disconnected by West Discom at the request of the Petitioner.*
 - f. *On and from 30.12.2019 to May 2020, the Petitioner was availing standby support from West Discom for its CGP. From June 2020, the Petitioner did not avail power from the West Discom at all. **In fact, on and from 2020, the Petitioner was not even connected to the grid for the purpose of availing power from West Discom.***

- g. Subsequently, on 10.10.2021, the Petitioner approached West Discom seeking to surrender its standby support and to take a new HT connection West Discom approved this request on 06.04.2022.
- h. Accordingly, on 21.04.2022 the Petitioner and West Discom entered into the HT Agreement dated 21.04.2022 which was accorded **Consumer No.H3471000571**.
- From the facts above mentioned, it is clear that the Petitioner's HT connection (consumer no. 3555904000) was permanently disconnected on 31.12.2019 (as mentioned by West Discom in its letter) and the Petitioner availed a new HT connection (consumer no. H3471000571) on 21.04.2021. In other words, clearly the Petitioner had applied for new HT connection well after the six months period contemplated under 2nd Proviso to condition (e) for HV-3 category consumers. In the interim the Petitioner was availing power from its CGP and had a standby support arrangement with the West Discom being No. H4613989677 .
 - West Discom's contention that on availing the new HT connection the Petitioner had merely changed the status of its supply from standby to HT is incorrect and misconceived. If it was a case of mere change in nature of supply, then West Discom would not have accorded a new consumer number to the Petitioner for its HT new connection after the Petitioner surrendered its original HT connection and standby support arrangement.
B. Standby Support is not akin to a permanent HT connection – it is a facility for captive users and not consumers
 - From 30.12.2019 till 23.04.2022 the Petitioner was availing standby support from West Discom as a captive user of its onsite CGP. It is West Discom's contention that standby support is akin to a HT connection. It is submitted that standby support is in fact akin to a temporary connection and not a HT connection. In this regard, the following is noteworthy:
 - a. Standby support is provided under the CGP Regulations. In terms of Regulation 1.2, the CGP Regulations shall apply only to CGPs using conventional fuel. In terms of Regulation 1.4(r) user is defined to mean a captive user. Explanation to Rule 3 of the Electricity Rules defines a captive user as the end user of electricity generated in a CGP.
 - b. Regulation 4.1 – 4.3 of the CGP Regulations clarifies that standby support is available only to captive users. In other words, Open Access consumers/ consumers of a distribution licensee are not entitled to standby support to the extent of the power procured under Open Access/ from distribution licensee.
 - c. The Petitioner falls within category A of Chapter IV of the CGP Regulations i.e., the Petitioner's CGP is islanded and in order to avail power under standby arrangement is required to be physically connected to the grid. This is also recorded in the recital to the Standby Support Agreement dated 30.12.2019 which is extracted hereunder:

“And whereas the consumers M/s UltraTech Cement Ltd (Unit: Vikram Cement Works) Vikram Nagar, Khor, Distt. Neemuch has applied for surrender of 5000 KVA contract Demand with WEST DISCOM therefore by virtue of its status, **the consumer falls within the category A of Captive Power Plants as per chapter IV of the Regulations dealing with other matter including "standby support".**”

- d. In terms of Regulation 4.9 the interconnecting breaker at the captive user's end is kept open and is charged by the distribution licensee only when the captive user requests for standby support. Regulation 4.10 sets out the procedure for a captive user to avail standby support. In terms of the said Regulation, once a request for standby support is made by the captive user the distribution licensee must provide supply within two hours (the interconnecting breakers must be closed within a period of 2 hours from receipt request). Once the captive user ceases to require standby support, the interconnecting breaker is re-opened for disconnection of standby supply within 2 hours.
 - e. Regulation 4.14 – 4.16 of the CGP Regulations sets out the charges for standby support. In terms of Regulation 4.14, the maximum demand that can be contracted under standby cannot be more than the total rated capacity of the CGP. In other words, standby support is availed only to offset urgent/ exigent power requirements of a captive user in the event of an outage/ tripping of the CGP.
 - f. Contrary to the contention of West Discom, standby support is provided for a limited period. In terms of Regulation 4.12, the total period for billing for stand-by support shall be from the time distribution licensee closes the interconnecting breaker in the premises of the captive user in presence of its representative for the availability of stand-by support up to the time the interconnecting breaker is re-opened for disconnection of stand-by supply in presence of the captive user's representative.
 - g. In terms of Regulation 4.15 and 4.16, captive user is mandated to pay:
 - i. A commitment charge to the distribution licensee, and
 - ii. Energy and fixed charges which are the same as applicable for **temporary connection.**
- Therefore, it is evident from CGP Regulations that:
 - a. Standby support is a facility provided only to captive users.
 - b. By its very nature, power supply under standby support is provided only when asked for by the captive user within a period of two hours. Therefore, there is no requirement of a continuous power supply by the licensee under standby support.
 - c. The energy and fixed charges for standby support are the same as those for a temporary connection.
 - In *Chhattisgarh State Power Distribution Co. Ltd. v. J.P. Saboo* (2011 SCC OnLine APTEL 22), the Hon'ble Appellate Tribunal for Electricity (“**Hon'ble**

Tribunal”) has held that standby supply is an entirely different category of supply. The relevant part of Hon’ble Tribunal’s Judgment is set out hereunder: “28. As pointed out by the learned Counsel for the State Commission if and when the Appellant has material to show the extra expenditure incurred, it is open to the Appellant to approach the State Commission for appropriate consideration. That apart, as pointed out by the learned Counsel for the Respondent, ordinarily the Captive Consumers will not take electricity from the Appellant. **As indicated above, the very nature of the supply by the Appellant to the Captive Consumer in the event of outage of a Captive Power Plant is that of stand-by supply. This stand-by supply has to be treated as a separate category.**”

- Evidently, West Discom’s contention that by availing a new HT connection the Petitioner has just changed the status of its supply is incorrect.
- It is submitted that HT connections, availing of contract demand, supply of electricity from distribution licensee to consumer and permanent disconnection of consumers are subjects which are provided by and governed by this Hon’ble Commission’s Supply Code. However, standby support arrangement is governed by this Hon’ble Commission’s CGP Regulations which are applicable only to captive users. The rebate granted by this Hon’ble Commission under specific terms and condition (e) in the Tariff Schedule of HV – 3 consumers, in the Tariff Order has to be understood in the light of a consumer’s connection with the West Discom and not a captive users standby arrangement with the distribution licensee in terms of the CGP Regulations.
- It is submitted that an HT connection is executed between a distribution licensee and its consumer. Per contra, standby support is an arrangement between the distribution licensee and a captive user as is evident from the CGP Regulations. The Hon’ble Supreme Court by its Judgment in Maharashtra State Electricity Distribution Company Limited v. JSW Steel Limited & Ors. (2022) 2 SCC 742 has held that captive users are separate and distinct from consumers receiving supply of electricity from their distribution licensees. Relevant extract of the Hon’ble Supreme Court’s Judgment is set out hereunder for ease of reference:
“12. Sub-section (4) of Section 42 shall be applicable only in a case where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply and only such consumer shall be liable to pay additional surcharge on the charges of wheeling, as may be specified by the State Commission. Captive user requires no such permission, as he has statutory right. **At this stage, it is required to be noted that as per the scheme of the Act, there can be two classes of consumers, (i) the ordinary consumer or class of consumers who is supplied with electricity for his own use by a distribution**

licensee/ licensee and; (ii) captive consumers, who are permitted to generate for their own use as per Section 9 of the 2003 Act.

16. Even otherwise, it is required to be noted that the consumers defined under Section 2(15) and the captive consumers are different and distinct and they form a separate class by themselves. So far as captive consumers are concerned, they incur a huge expenditure/ invest a huge amount for the purpose of construction, maintenance or operation of a captive generating plant and dedicated transmission lines. However, so far as the consumers defined under Section 2(15) are concerned, they as such are not to incur any expenditure and/ or invest any amount at all. Therefore, if the appellant is held to be right in submitting that even the captive consumers, who are a separate class by themselves are subjected to levy of additional surcharge under Section 42(4), in that case, it will be discriminatory and it can be said that unequals are treated equally. Therefore, it is to be held that such captive consumers/ captive users, who form a separate class other than consumers defined under Section 2(15) of the 2003 Act, shall not be subjected to and/ or liable to pay additional surcharge leviable under Section 42(4) of the 2003 Act.”

- The aforesaid finding has been reiterated by the Hon'ble Appellate Tribunal in its Judgment dated 29.11.2022 in Appeal No. 198 of 2021 and Batch titled as UltraTech Cement Limited (Unit: Vikram Cement Works) v. Madhya Pradesh Electricity Regulatory Commission & Anr., wherein the Hon'ble Appellate Tribunal has held as under:

“12. The captive generation and use is statutorily permitted. The State Commission is not right in proceeding on the premise that this requires permission to be taken from the regulatory authority, right to open access for carrying electricity by the captive user to the destination of own use having been granted by the law. It is not correct to treat a captive user as a consumer availing supply from another person. The captive user owns the captive power plant and, therefore, is carrying his own electricity elsewhere and, thus, cannot be treated, to that extent, as a procurer of electricity from another person within the mischief of sub-section (4) of section 42. A captive user thus forms a class distinct from a “consumer”, as defined by section 2(15) which reads as under:....

13. A captive user does not seek or receive supply of electricity for his use from a licensee or the government or by any other person engaged in such business of supply of electricity to the public. The expression “captive user” is defined by the explanation appended to Rule 3 of the Electricity Rules, 2005, simply as “the end user of electricity generated in a captive generating plant (CGP).”

- West Discoms contention that the above judgment is only applicable on the issue of Additional Surcharge is incorrect and misconceived. The Hon'ble Supreme Court has derived the statutory distinction between consumers of a distribution licenses and captive users on an interpretation of the scheme of the Electricity

Act. Therefore, the findings of the Hon'ble Tribunal are not limited only to the issue of levy of additional surcharge.

- *Therefore, and in view of the above, standby support provided to a captive user cannot be equated to a HT connection provided to a consumer of a distribution licensee. Hence, for the purpose of determining whether the Petitioner meets the qualification under 2nd Proviso to specific terms and condition no. (e) for HV 3 consumers, the period of six months shall be construed from the date on which the consumers HT connection (and not standby support) was disconnected.*
- *In the present case, since the original HT connection was terminated on 31.12.2019 and the new HT connection was availed only on 23.04.2022, evidently the period of six months has long expired. Therefore, the Petitioner meets the qualification under 2nd Proviso to specific terms and conditions no. (e) for HV 3 consumers of this Hon'ble Commission's Tariff Order dated 31.03.2022.*
- *West Discoms reference to the Supply Code 2021 is misconceived and irrelevant. It is not at all the Petitioner's case that standby support is the same as temporary connection. The Petitioner has contended that standby support, by its nature, is more akin to a temporary connection than a permanent HT connection. As is evident from the above, even the CGP Regulations indicates that standby connection is more akin to a temporary connection (given that the energy and fixed charges for standby support are the same as those applicable to a temporary connection) than to a regular HT connection.*
- *West Discom's contention that the rebate for new HT connection under specific terms and conditions (e) of the Tariff Order is only applicable to new projects is wholly misconceived and untenable. 2nd Proviso to specific terms and conditions (e) makes it clear that the rebate is applicable to new HT connections who have applied for such connection six months after being permanently disconnected. It is well settled that a Proviso is an exception to the main rule. Therefore, assuming without admitting, that the rebate for HT connection is applicable to new projects, by virtue of the 2nd Proviso, an exception is created for permanently disconnected consumers who avail a new HT connection after six months.*
- *In this regard, reference is made to the Hon'ble Supreme Court's Judgment in S. Sundaram Pillai & Ors. v. V.R. Pattabiraman & Ors. (1985) 1 SCC 591 wherein the Hon'ble Supreme Court has held as under:
"40. In Commissioner of Commercial Taxes v. R.S. Jhaver [(1968) 1 SCR 148 : AIR 1968 SC 59 : 20 STC 453] this Court made the following observations:
"Generally speaking, it is true that the proviso is an exception to the main part of the section; but it is recognised that in exceptional cases a proviso may be a substantive provision itself." ...
42. In Hiralal Rattanlal v. State of U.P. [(1973) 1 SCC 216 : 1973 SCC (Tax) 307] this Court made the following observations: [SCC para 22, p. 224:*

SCC (Tax) p. 315] “Ordinarily a proviso to a section is intended to take out a part of the main section for special treatment. It is not expected to enlarge the scope of the main section. But cases have arisen in which this Court has held that despite the fact that a provision is called proviso, it is really a separate provision and the so-called proviso has substantially altered the main section.”

43. We need not multiply authorities after authorities on this point because the legal position seems to be clearly and manifestly well established. **To sum up, a proviso may serve four different purposes:**

(1) qualifying or excepting certain provisions from the main enactment:

(2) it may entirely change the very concept of the intendment of the enactment by insisting on certain mandatory conditions to be fulfilled in order to make the enactment workable:

(3) it may be so embedded in the Act itself as to become an integral part of the enactment and thus acquire the tenor and colour of the substantive enactment itself; and

(4) it may be used merely to act as an optional addenda to the enactment with the sole object of explaining the real intendment of the statutory provision.”

- In *Shah Bhojraj Kuverji Oil Mills and Ginning Factory v. Subbash Chandra Yograj Sinha* (1962) 2 SCR 159, the Hon'ble Supreme Court has held as under:

“9. It is contended by the learned Attorney-General that the construction placed by the High Court upon the first proviso to Section 50 is erroneous. Though he concedes that the proviso must be read as qualifying what the substantive part of Section 50 enacts, he urges that the proviso goes beyond that purpose and enacts a substantive law of its own. He relies upon the following observations of Lord Loreburn, L.C. in *Rhondda Urban Council v. Taff Vale Railway* [(1909) AC 253, 258] where a proviso to Section 51 of the Railway clauses Consolidation Act, 1845, was under consideration:

“It is true that Section 51 is framed as a proviso upon preceding sections. But it is also true that the latter half of it, though in form a proviso, is in substance a fresh enactment, adding to and not merely qualifying that which goes before.”

And contends that the latter portion of the proviso, in question, being a substantive enactment, comprehends not only those suits which were pending on the date of repeal but also those cases, which came within the language of the latter part of the proviso, whenever the Act was extended to new areas. On behalf of the landlord, the learned Solicitor-General argues that the proviso should be read as a proviso only to the substantive enactment, and must be taken to qualify the substantive portion of Section 50 only to the extent to which it makes an exception to the repeal and but for the proviso would be governed by the repealed Acts. He relies upon *Craies on Statute Law*, 5th Edn., pp. 201-202, where the following passage occurs:

“The effect of an excepting or qualifying proviso, according to the ordinary rules of construction, is to except out of the preceding portion of the enactment, or to qualify something enacted therein, which but for the proviso would be within it :

and such a proviso cannot be construed as enlarging the scope of an enactment when it can be fairly and properly construed without attributing to it that effect.” He also relies upon the following observations of Lush, J., in Mullins v. Treasurer of Surrey [1880 5 QBD 170, 173] :

“When one finds a proviso to a section, the natural presumption is that, but for the proviso, the enacting part of the section would have included the subject-matter of the proviso.”

10. The law with regard to provisos is well settled and well understood. As a general rule, a proviso is added to an enactment to qualify or create an exception to what is in the enactment, and ordinarily, a proviso is not interpreted as stating a general rule. But, provisos are often added not as exceptions or qualifications to the main enactment but as savings clauses, in which cases they will not be construed as controlled by the section. The proviso which has been added to Section 50 of the Act deals with the effect of repeal. The substantive part of the section repealed two Acts which were in force in the State of Bombay. If nothing more had been said, Section 7 of the Bombay General clauses Act would have applied, and all pending suits and proceedings would have continued under the old law, as if the repealing Act had not been passed. The effect of the proviso was to take the matter out of Section 7 of the Bombay General clauses Act and to provide for a special saving. It cannot be used to decide whether Section 12 of the Act is retrospective. It was observed by Wood, V.C., in Fitzgerald v. Champneys [70 E.R. 958] that saving clauses are seldom used to construe Acts. These clauses are introduced into Acts which repeal others, to safeguard rights which, but for the savings, would be lost. The proviso here saves pending suits and proceedings, and further enacts that suits and proceedings then pending are to be transferred to the courts designated in the Act and are to continue under the Act and any or all the provisions of the Act are to apply to them. The learned Solicitor-General contends that the savings clause enacted by the proviso, even if treated as substantive law, must be taken to apply only to suits and proceedings pending at the time of the repeal which, but for the proviso, would be governed by the Act repealed. According to the learned Attorney-General, the effect of the savings is much wider, and it applies to such cases as come within the words of the proviso, whenever the Act is extended to new areas.”

C. West Discoms non-implementation and non-compliance of this Hon'ble Commission's Tariff Order dated 31.03.2022

- *It is submitted that West Discom has refused to implement this Hon'ble Commission's Tariff Order and grant rebate to the Petitioner despite being fully aware of the facts and legal position. Despite a detailed letter dated 17.06.2022 explaining the legal position as understood by the Petitioner, on 15.07.2022 West Discom has rejected the Petitioner's request without adducing any reasons. It is denied that the Petition is a malicious filing. West Discom's erroneous interpretation of the Tariff Order and the regulatory framework has resulted in its*

non-compliance of the Tariff Order which attract Sections 142, 146 and 149 of the Electricity Act.

- *It is submitted that the facts set out above as well as West Discom's contentions clearly demonstrate that it has intentionally failed to comply with and implement this Hon'ble Commission's Tariff Order. Such conduct of West Discom attracts Sections 142, 146 and 149 of the Electricity Act. Hence, West Discom's contention that the present filing is malicious, is rejected outright*

D. Conclusion

- *It is therefore, submitted that the Petition ought to be allowed and this Hon'ble Commission ought to:*
 - (a) Direct West Discom to comply with this Hon'ble Commission's Tariff Order dated 31.03.2022 and provide the rebate of new HT connection to the Petitioner on and from 23.04.2022 along with applicable interest/ carrying cost, and*
 - (b) Take appropriate action against West Discom for non-compliance of this Hon'ble Commission's Tariff Order dated 31.03.2022.*
- *The Petitioner reserves its right to add/ alter/ amend/ supplement the above submissions, if the need so arises.*

Commission's observations and findings

15. As per Petitioner's submission, the dispute arose due to fact that Respondent has denied the petitioner's request for rebate on the premise that qualifying requirement under 2nd proviso to condition (e) of specific terms and conditions of tariff schedule for HV3 category of Retail supply Tariff order for FY22-23 has not been met in present case as a new HT connection is entitled for rebate, if the application for new connection is received at least 6 months after date of permanent disconnection and that petitioner was availing standby support from Respondent which is akin to a HT connection from 30.12.2019 till 23.04.2022 – the very date the petitioner's standby support arrangement came to an end and petitioner started availing power under new HT Agreement dated 21/04/22.

The condition (e) of specific terms and conditions of tariff schedule for HV3 category of Retail supply Tariff order for FY22-23 is presented below :

- “(e) ***Rebate for new HT connections:*** *A rebate of Rs 1 per Unit or 20% whichever would be less is applicable in energy charges for new connection for the consumption recorded. The rebate shall be allowed upto FY 2022-23 from the date of connection for such new projects for which agreements for availing supply from licensee are finalized during and after FY 2016-17.*

Provided that no rebate shall be applicable for connections obtained by virtue of change in ownership in existing connection or by reconnection.

Provided also that new connection on the permanently disconnected premises shall only be eligible for such rebate, if, the application for new service connection on such premises is received not before the expiry of six months from the date of its permanent disconnection.

The consumer availing this rebate shall not be entitled for the rebate of incremental consumption under clause (d) above.”

16. The Commission admitted the petition in accordance with 1.32 of Retail supply tariff order FY2022-23, which provides that in case any dispute arises regarding interpretation of this tariff order and/or applicability of this tariff, the decision of the Commission shall be final and binding. In the present case, petitioner was denied rebate by Respondent under aforesaid provisions citing the reasons that Standby support availed by the petitioner is akin to a permanent connection and that petitioner has merely changed its supply status from “standby” HT connection to “permanent connection” by surrendering his standby connection on 23.04.22 and availed permanent HT connection on his premises on very same days i.e 23/04/22. In the matter petitioner has contended that standby support is not akin to a permanent connections and it is a facility for captive users and not consumer of Distribution Licensee, in accordance with terms of Commission’s Regulation namely MPERC (Power Purchase and other matters with respect to Conventional Fuel based Captive Power Plants) (Rev1) Regulation, 2009 and amendment thereof.
17. Apropos of Regulation 1.4 (p) of MPERC (Power Purchase and other matters with respect to Conventional Fuel based Captive Power Plants) (Rev 1) Regulation, 2009, it is defined that “Stand-by support” shall mean the contractual arrangement between the CPP user and the Distribution Licensee of his area of supply to provide power in case of planned or forced outage of the CPP. Further, in regard to availing Stand –by support, the Commission in its aforesaid Regulations has specified following broad conditions /criteria as reproduced below :

Stand-by support

- 4.1 *The Stand-by support shall be provided to the following types of captive generators/ Users [hereinafter is referred to as “User(s)”] with a minimum capacity of 1 MW :*
- (a) *CPP and User are located in the same premises but the CPP is not connected to the grid (operating in an islanded mode) and thus the User is not a consumer of the Distribution Licensee;*
 - (b) *CPP and User (s) are in the same premises and CPP is connected to the grid, but the User does not have any external source of supply other than the Licensee of User’s area of supply; and*
 - (c) *CPP is located at one premises and the User is located at other premises. Also, the User is availing additional supply from licensee only*

and there are no other supply arrangements.

4.2 *The Stand-by support shall not be allowed to any consumer who has arrangement for availing supply from a source other than the Licensee of his area of supply and his own captive generation.*

4.3 *The following table lays down the different types of transactions involving Captive Power Plants and its Users, and the applicability of stand-by support in each situation:*

Part	CPP type / location	Arrangement for availing additional supply by Captive User	Stand-by support
A	<i>Islanded CPPs (physical connection to grid required if CPP User requests Stand-by support)</i>	<i>No arrangement</i>	<i>Allowed</i>
B	<i>CPP and User located in same premises and connected to Grid</i>	<i>From Licensee only</i>	<i>Allowed</i>
C	<i>CPP located at premises A and user located at premises B</i>	<i>From Licensee only</i>	<i>Allowed subject to the terms and conditions under Balancing and Settlement Code.</i>
D	<i>CPP and User located in same premises and connected to Grid</i>	<i>From Licensee and also from other sources</i>	<i>Not allowed</i>
E	<i>CPP located at premises A and user located at premises B</i>	<i>From Licensee and also from other sources</i>	<i>Not allowed</i>

4.4 *User who is allowed Stand-by support as per the table above may request for Stand-by support from the Distribution Licensee of his area of supply and the Distribution Licensee shall be obliged to provide such support to the User.*

4.5 *Users existing on the date of notification of these regulations and requiring Stand-by support shall be required to execute supplementary agreement within 30 days of notification of these regulations to abide by the rules under these Regulations applicable from the date of notification. The prospective Users shall disclose their willingness to avail of stand-by support at the time of submitting their application for connection / open access.*

4.6 *For the purpose of Stand-by support, such User and the Distribution Licensee or M.P. Power Trading Co. on behalf of the Distribution Licensee shall have*

to enter into an agreement for such support. The Distribution Licensee/ M.P. Power Trading Co., as the case may be, shall prepare a model agreement within one (1) month of notification of these regulations and shall take Commission's approval for the same.

- 4.7 *The User shall normally not avail Stand-by support more than the contracted stand-by demand.*
- 4.8 *The following Sections of the Regulations describe the conditions for provision of stand-by support applicable on each "Part" or type of transaction described in the table above, which are allowed the facility of Stand-by support from the Licensee (i.e. Parts A, B and C).*

PART – A:

Conditions for availing Stand-by support

- 4.9 *Such Users, if requiring Stand-by support, shall have to procure required interconnecting infrastructure at their cost. The Interconnecting breaker on the User's end shall be kept open, and shall be charged by the Licensee only when the requirement of Stand-by support is informed by the User in writing to the Licensee as per clause 4.10 below.*
- 4.10 *Such Users shall request the Distribution Licensee of his area of supply in writing about the requirement of Stand-by support. It shall be the responsibility of the Distribution Licensee to maintain the interconnecting line in charged condition with the interconnecting breaker in open position. The Distribution Licensee shall arrange to close the interconnecting breaker on User's end within a period of 2 hours from the time of receipt of such request. When the User ceases to require Stand-by support from the Licensee, it shall again inform the Licensee in writing about the same. The Licensee, on receiving such request, shall re-open the Interconnecting breaker on the User's end within 2 hours.*
- 4.11 *User's request to the Licensee shall indicate the amount of Stand-by demand the User wishes to requisition against his total Stand-by Contracted Demand for daily scheduling purposes by the Distribution Licensee.*
- 4.12 *The total period for the purpose of billing for stand-by support shall be from the time the Licensee closes the interconnecting breaker in the premises of the User in presence of its representative for the availability of stand-by support up to the time the interconnecting breaker is re-opened for disconnection of stand-by supply in presence of user's representative pursuant to communication of the User and subject to provisions in Clause 4.10 above.*
- 4.13 *The request from the User shall be sent to the Superintending Engineer of the concerned Circle, or any other authorised officer as designated by the Licensee. The detailed process of sending and acknowledgements of these requests shall be worked out between the Licensee and the User and shall be stated in the Stand-by agreement.*

Charges for Stand-by support

- 4.14 *In case of such Users, the maximum demand that can be contracted under Stand-by support cannot be more than the total rated capacity of all the captive generating units of the CPP holder.*
- 4.15 *Wherever an agreement for Stand-by support exists between the User and the Licensee of his area of supply, the User shall be required to pay to the Licensee a charge equal to Rs. 31 per kVA per month or part thereof towards commitment charges applied on the capacity (in kVA) contracted on 33 kV and Rs. 25 per kVA per month or part thereof towards commitment charges applied on the capacity (in kVA) contracted on 132kV as Stand-by support from the Distribution Licensee.*
- Provided that the charges referred to above shall apply uniformly every month commencing from the date of applicability of the stand-by agreement, irrespective of whether the User avails stand-by support or not.*
- Provided further that the above commitment charges are applicable up to the control period ending on 31.3.2012, and shall be reviewed thereafter.*
- 4.16 *In addition to above commitment charges, the User shall also be required to bear energy charges and fixed charges for the power consumed during period of Stand-by support which shall be same as applicable for temporary connection as approved by the Commission for corresponding category in its tariff orders from time to time.*
- 4.17 *The fixed charges shall be applied on the maximum demand at any 15 minutes time block covered under stand-by period subject to minimum of 90 % of the contract demand. The standby period for this purpose shall be reckoned maximum up to 30 continuous days. The energy charges shall be applied on the total energy consumed across all time-blocks covered under stand-by period.*
- 4.18 *In case the recorded maximum demand at the CPP premises exceeds the Stand-by contract demand, the excess demand recorded shall be billed for at 2 times the fixed charges arrived at from Clause 4.17.*
- 4.19 *The Stand-by support availed by the User shall be entitled for power factor incentives and penalties as approved by the Commission for retail supply consumers in its Tariff Order. However, the load factor concession shall not be applicable.*
- 4.20 *There shall be no minimum energy charges on power consumed under Stand-by support for such Users.*
- 4.21 *In case the stand-by support is availed by the User for more than one time in a particular month, the fixed charges shall be billed for the first time only.*

PART – B:

Conditions for availing Stand-by support

4.22 *The User shall request the Distribution Licensee of his area of supply about the requirement of stand-by support at least two (2) hours before the time the captive consumer intends to avail power from the Distribution Licensee. The User shall inform the Distribution Licensee with the date and time of the stoppage of its captive power plant. When the User's CPP starts functioning again, the User shall, within a period of one (1) hour, inform the Distribution Licensee about the same duly giving the actual date and time since the plant started functioning again. However, where modification in metering is required while affording standby supply, the User shall request for standby support twelve (12) hours in advance and for withdrawal of support, the Distribution Licensee shall stop the standby support within twelve (12) hours of receipt of such request. The total period of stand-by support shall be worked out accordingly.*

Provided that the Distribution Licensee may verify the actual date and time of both commencement and ending of the Stand-by period, as provided by the User, with the actual meter readings, and other records as may be necessary, at the CPP / Captive User's premises.

4.23 *User's request to the Licensee shall indicate the amount of Stand-by demand the consumer wishes to requisition against his total Stand-by Contracted Demand for the purpose of daily scheduling by the Distribution Licensee.*

4.24 *The request from the User shall be sent to the Superintending Engineer of the concerned Circle, or any other authorised officer as designated by the Licensee. The detailed process of sending and acknowledgements of these requests shall be worked out between the Licensee and the User and shall be stated in the Stand-by contract.*

Charges for Stand-by support

4.25 *The maximum demand that can be contracted under Stand-by support cannot be more than the total rated capacity of all the generating units of the User's CPP.*

4.26 *Wherever an agreement for Stand-by support exists between such User and the Distribution Licensee of his area of supply, the User shall be required to pay to the Distribution Licensee, the charges as per clause 4.15 and 4.16 of these Regulations.*

4.27 *The billing for Stand-by charges shall be done in the manner as prescribed in clause 1.18 (g) of the tariff order dated 29.3.08.*

4.28 *Other terms and conditions shall be as per clause 4.17 to 4.21 of these Regulations.*

PART – C:

Conditions for availing Stand-by support

4.29 *The facility for standby support shall be available for such Users subject to the terms and conditions under Balancing and Settlement Code, which shall be notified by the Commission.*

Charges for Stand-by support

4.30 *The maximum demand that can be contracted under Stand-by support cannot be more than the total rated capacity of all the generating units of the User's CPP.*

4.31 *Wherever an agreement for Stand-by support exists between such User and the Distribution Licensee of his area of supply, the User shall be required to pay to the Distribution Licensee, the charges as per clause 4.15 and 4.16 of these Regulations.*

4.32 *The billing for Stand-by charges shall be done in the manner as prescribed in clause 1.18 (g) of the tariff order dated 29.3.08.*

4.33 *Other terms and conditions shall be as per clause 4.17 to 4.21 of these Regulations.*

18. The Commission observed that aforesaid provisions of the Regulations clearly stipulate that Standby support is meant for captive users only and cannot be equated with a permanent connection where continuous power supply is required. In light of above observations, the Commission is of the view that petitioner meets the qualifying requirement for rebate under 2nd proviso to condition (e) of specific terms and conditions of tariff schedule for HV3 category of Retail supply Tariff order for FY22-23 issued on 31/03/22 in Petition no. 04/2022. Accordingly, Respondent is directed to comply with the provision in accordance with specific terms and conditions (e) of tariff schedule of HV 3 category by providing rebate to petitioner for new HT connection with effective date.

With above directions petition is disposed of.

(Gopal Srivastava)
Member (Law)

(Mukul Dhariwal)
Member

(S. P. S. Parihar)
Chairman