 <p><b>MAHAVITARAN</b> Maharashtra State Electricity Distribution Co. Ltd.</p> <p>(A Govt. of Maharashtra Undertaking)</p> <p>CIN : U40109MH2005SGC153645</p>	<p><b>Maharashtra State Electricity Distribution Co. Ltd.</b></p> <p>महाराष्ट्र राज्य विद्युत वितरण कंपनी मर्यादित</p> <p><b>Office of the Superintending Engineer (Tariff Regulatory Cell)</b></p> <p>5<sup>th</sup> Floor, 'Prakashgad' Plot No.G-9, Prof. Anant Kanekar Marg, Bandra (E), Mumbai-400 051. Tel: 69852200/69853535 Extn.:2515</p> <p>Email: setrcmsedcl@gmail.com Website: www.mahadiscom.in</p>	
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Ref: SE/TRC/MYT-2024/Review/ **No 1 3 1 6 6**

Date: **2 8 APR 2025**

To,  
The Secretary,  
Maharashtra Electricity Regulatory Commission,  
World Trade Centre, Centre No 1,  
13<sup>th</sup> Floor, Cuffe Parade, Mumbai.

**Subject:** Petition seeking review of MYT order dated 28<sup>th</sup> March 2025 in Case no. 217 of 2024 under section 94 (1) (f) of the Electricity Act, 2003 and Regulation 28 of MERC (Transaction of Business and Fees and Charges) Regulations, 2022 in the matter of Final True Up of FY 2022-23 & FY 2023-24, Provisional True Up for FY 2024-25 and Projections of ARR & Tariff for FY 2025-26 to FY 2029-30 - **Submission thereof.**

Sir,


MSEDCL is hereby submitting its petition seeking review of MYT order dated 28<sup>th</sup> March 2025 in Case no. 217 of 2024 under section 94 (1) (f) of the Electricity Act, 2003 and Regulation 28 of MERC (Transaction of Business and Fees and Charges) Regulations, 2022 in the matter of Final True Up of FY 2022-23 & FY 2023-24, Provisional True Up for FY 2024-25 and Projections of ARR & Tariff for FY 2025-26 to FY 2029-30; which is enclosed herewith. The necessary fees of Rs. 3,75,000/- as per MERC (Transaction of Business and Fees and Charges) Regulations, 2022 is paid vide UTR No. MAHBHN12025040208935035 dated 02<sup>nd</sup> April, 2025.

This may please be taken on record and be placed before Hon'ble Commission for its kind consideration.

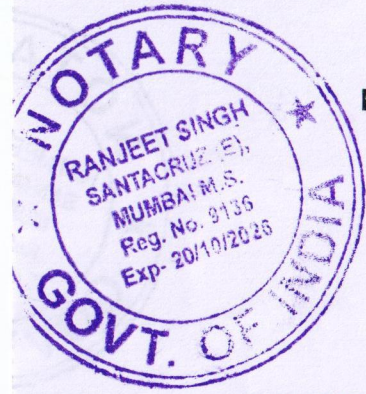
Thanking you.

Encl: As above

Yours faithfully,

  
(Pralhad H. Aher)

Superintending Engineer,  
(Tariff Regulatory Cell), MSEDCL.



**BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY**

**COMMISSION, MUMBAI**

**FILING NO. \_\_\_\_\_ OF 2025**

**CASE NO. \_\_\_\_\_ OF 2025**

**PETITION UNDER SECTION 94(1)(F) OF THE ELECTRICITY ACT, 2003  
READ WITH REGULATION 28 OF THE MERC (TRANSACTION OF BUSINESS  
AND FEES AND CHARGES) REGULATIONS, 2022 FOR REVIEW OF THE  
ORDER DATED 28.03.2025 PASSED BY THIS HON'BLE COMMISSION IN  
CASE NO. 217 OF 2024**

**In the matter of:**

Case of Maharashtra State Electricity Distribution Co. Ltd. for Truing-up of Aggregate Revenue Requirement (ARR) for FY 2022-23 and FY 2023-24, Provisional Truing-up of ARR for FY 2024-25 and approval of ARR and Tariff for FY 2025-26 to FY 2029-30 for its Distribution Business in accordance with the Maharashtra Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2024

**AFFIDAVIT VERIFYING THE PETITION**

I, Pralhad Hiranman Aher, son of Mr. Hiranman D. Aher, being the Superintending Engineer of the Applicant, the authorized signatory of the Petitioner, having my office at MSEDCL, Prakashgad, Plot No. G-9, Anant Kanekar Marg, Bandra (E), Mumbai – 400051, do hereby solemnly affirm and state as under:

1. I am the Authorized Signatory of the Applicant/Petitioner in the above matter and I am duly authorised by the said Applicant/Petitioner and competent to depose this Affidavit.
2. The statements made in paragraphs Nos. \_\_\_\_\_ of the Petition are true to my knowledge and belief, and statements made in

paragraph Nos. \_\_\_\_\_ are based on information and I believe them to be true.

3. I say that there are no proceedings pending in any court of law/tribunal or arbitrator or any other authority, wherein the Petitioners are a party and where issues arising and/or reliefs sought are identical or similar to the issues arising in the matter pending before the Commission.

4. Solemnly affirm at Mumbai on this 26th day of April 2025 that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

( )

Identified before me

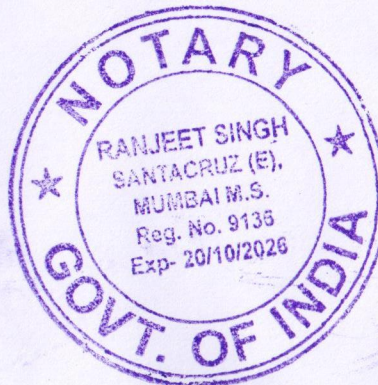
Place Mumbai

Dated 26 APR 2025

Prakash

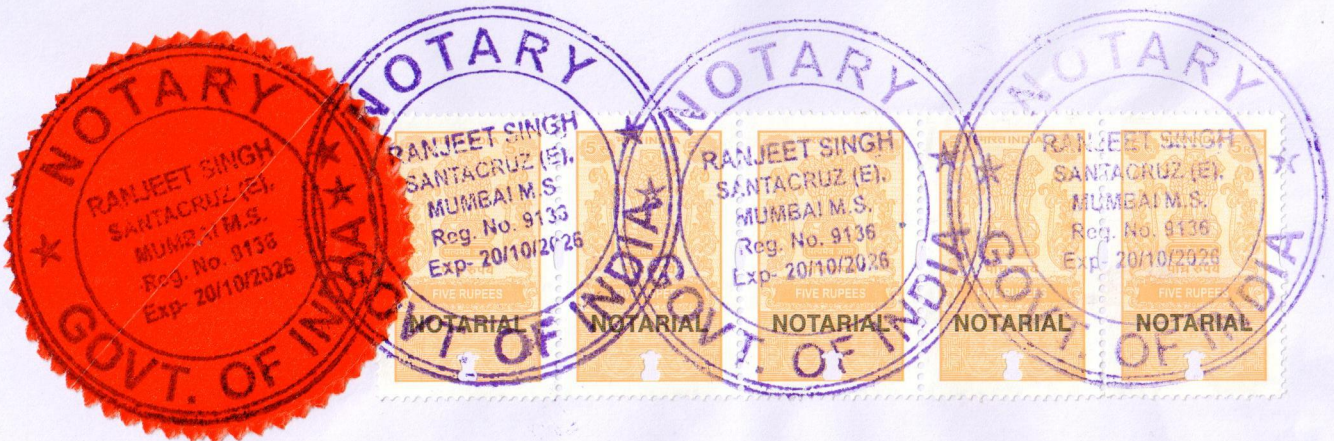
**DEPONENT**

Superintending Engineer (TRCy)  
M.S.E.D.C.L.  
Prakashgad, Bandra (E),  
Mumbai - 400 051.



**BEFORE ME**

RMS  
**RANJEET SINGH**  
M.Sc., LL.B.  
NOTARY, SANTACRUZ (E)  
MUMBAI MAHARASHTRA  
(GOVT. OF INDIA)  
26 APR 2025



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**`BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION,  
MUMBAI**

**Review Petition No. \_\_\_\_\_ of 2025**

**IN THE MATTER OF:**

Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 28 of the MERC (Transaction of Business and Fees and Charges) Regulations, 2022 for review of the Order dated 28.03.2025 passed by this Hon'ble Commission in Case No. 217 of 2024 for Truing-up of Aggregate Revenue Requirement (ARR) for FY 2022-23 and FY 2023-24, Provisional Truing-up of ARR for FY 2024-25 and approval of ARR and Tariff for FY 2025-26 to FY 2029-30 for the Distribution Business of Maharashtra State Electricity Distribution Co. Ltd.

**AND IN THE MATTER OF:**

Maharashtra State Electricity Distribution Co. Ltd.

Through its Superintending Engineer (Tariff Regulatory Cell)

Prakashgad, Plot No. G-9

Anant Kanekar Marg, Bandra (East)

Mumbai, Maharashtra – 400 015

**...Review Petitioner**

**Review Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 28 of the MERC (Transaction of Business and Fees and Charges) Regulations, 2022**

**MOST RESPECTFULLY SHOWETH:**

**1. Details of the Review Petition**

- 1.1 The present Review Petition has been filed by Maharashtra State Electricity Distribution Co. Ltd ("**MSEDCL**" / "**Review Petitioner**") under section 94 (1)(f) of the Electricity Act, 2003 ("**Act**"/ "**Electricity Act**"), read with Regulation 28 of the MERC (Transaction of Business and Fees and Charges)

Regulations, 2022 ("**Transaction of Business Regulations**") seeking a review and modification of the Order dated 28.03.2025 passed by this Hon'ble Commission in Case No. 217 of 2024 for Truing-up of Aggregate Revenue Requirement (ARR) for FY 2022-23 and FY 2023-24, Provisional Truing-up of ARR for FY 2024-25 and approval of ARR and Tariff for FY 2025-26 to FY 2029-30 ("**Fifth Control Period**") for its Distribution Business ("**MYT Order**").

- 1.2 It is humbly submitted that the MYT Order suffers from several manifest errors, which are apparent on the face of the record and are liable to be immediately reviewed by this Hon'ble Commission in exercise of its review jurisdiction under section 94 (1)(f) of the Act and Regulation 28 of the Transaction of Business Regulations. Unless immediately corrected, the said errors will have a debilitating impact on the financial viability of the Review Petitioner, and its ability to reliably supply power to its consumers. MSEDCL, being the state distribution utility, serves crores of consumers across the state, and its viable and uninterrupted operations are critical to the energy security of the state itself.
- 1.3 It is further submitted that notwithstanding the submissions made in the present Review Petition, this Hon'ble Commission has inherent powers, including under section 64(6) of Electricity Act, Regulations 39 and 40 of the Transaction of Business Regulations and Regulation 12.3 of the MYT Regulations, to suo-motu amend the tariff and correct any apparent errors in tariff. The said power has also been duly recognised by the Hon'ble Supreme Court of India in UPPCL v. NTPC Ltd. And Ors., 2009 (6) SCC 235, where the Hon'ble Supreme Court laid down the law in this regard in the following manner:

"6. We are in this batch of appeals are concerned with the power of the Central Commission to make tariff **and to revise the same at the instance of a generating company.**

...

28. Power and/ or jurisdiction of the Central Commission to frame tariff and/ or carry out revision thereof is not in dispute. It is in fact a well-settled that the Central Commission has the exclusive jurisdiction to frame not only tariff **but also any amendment, alterations and additions** in regard thereto.

...

30. ...Regulation 110 empowers the Central Commission to issue orders and practice directions in regard to the implementation of the Regulations and procedure to be followed and various matters which the Commission has been empowered by these regulations to specify or direct. Regulations 111 and 112 read as under:

"111. Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission.

112. Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters."

...

36. ...Regulations 92 and 94, in our opinion, do not restrict the power of the Central Commission to make additions or alterations in the tariff. **Making of a tariff is a continuous process. It can be amended or altered by the Central Commission, if any occasion arises therefor.** The said power can be exercised not only on an application filed by the generating companies **but by the Commission also on its own motion.**

37. Assuming that Regulation 103 of the 1999 Regulations would be applicable in a case of this nature, the same also confers a wide jurisdiction. The Commission, apart from entertaining an application for review on an application filed by a party, **may exercise its suo motu jurisdiction.** While the Central Commission exercises a suo motu jurisdiction, the period of limitation prescribed in Regulation 103 shall not apply. **There cannot, however, by any doubt whatsoever that while exercising such jurisdiction, the Central Commission must act within a reasonable time.** Furthermore, **the statute does not provide for the manner in which a petition is to be filed before the Central Commission or the manner in which the tariff order is to be passed or revision or non-revision thereof.**"

As such, it is humbly submitted that given the significant number of manifestly patent errors in the MYT Order (attached as **ANNEXURE P-1**), and the debilitating impact thereof on MSEDCCL, the state utility's distribution business, which serves crores of consumers, this Hon'ble Commission is urged

to exercise its suo-motu powers and correct the said manifest and serious errors without any further delay.

1.4 Without prejudice and in addition to the aforesaid, it is submitted that the Review Petitioner is filing the present Review Petition aggrieved by the following points/issues, all of which have been described in detail in the following paragraphs. The Review Petitioner reserves its rights and remedies to file an appeal before the Hon'ble Appellate Tribunal for Electricity under section 111 of the Act in respect of any other issue not specifically taken up in the present Review Petition:

- (i) Disallowance of Capex and consequential impact on ARR;
- (ii) Manifest errors in Hon'ble Commission's power procurement model and projection of total sales, resulting in significant disallowance of power purchase cost for the Fifth Control Period;
- (iii) Manifest errors in determination of Agricultural Sales: disallowance of technical losses and impact on AG sales index;
- (iv) Erroneous findings with respect to Time of Day tariff and banking provisions;
- (v) Manifest error in non-consideration of assets created through grants and consumer contribution in determination of Operation & Maintenance ("**O&M**") expenses;
- (vi) Disallowance in Interest on Working Capital;
- (vii) Manifest error in disallowing the additional ROE for FY 2022-23 and FY 2023-24 for the Distribution Wires Business;
- (viii) Manifestly erroneous and arbitrary change in classification of the Hotel industry and undue benefit to specific EHV consumer of MSEDCL;
- (ix) Inequitable distribution of savings in Power Purchase Cost;
- (x) Manifest error in calculation of rate of depreciation for FY 2022-23 to FY 2024-25 and for the fifth control period;
- (xi) Disallowance of Grid Support Charges;
- (xii) Manifest error in respect of removal of RPO fulfilment in respect of green power supplied to non-obligated entities at the green tariff;
- (xiii) Manifest error in disallowance of power purchase cost for the FY 2024-25;
- (xiv) Erroneous energy balance calculation in True-up period

- 1.5 The Review Petitioner is yet to receive a certified copy of the Order, and therefore, craves leave of this Hon'ble Commission to file a copy of the Order as published on this Hon'ble Commission's official website. A copy of the Order dated 28.03.2025 passed by this Hon'ble Commission is annexed as **ANNEXURE P-2.**

The Review Petitioner's issue-wise submissions in respect of issues set out at para 1.4 above are set out below:

**I. Disallowance of Capex and consequential impact on ARR**

2. It is humbly stated that this Hon'ble Commission has committed a manifestly apparent error by disallowing the capex and capitalisation sought by the Review Petitioner for FY 2022-23, FY 2023-24, FY 2024-25 and for the Fifth Control Period. A summary of the disallowance of capex approval and capitalisation, as the case may be, is set out below for ease of reference:

**Fourth Control Period (in Rs. Crore):**

Particulars	FY 2022-23		FY 2023-24		FY 2024-25		Fourth Control Period
	MYT Petition	Approved	MYT Petition	Approved	MYT Petition	Approved	Total
DPR Schemes	0.00	0.00	19.16	0.00	3,970.12	0.00	3,989.28
100% funded	5.42	0.00	23.42	0.00	150.00	0.00	178.83
DPR approved schemes	2,677.80	2,677.80	3,915.49	3,903.46	7,519.58	6,641.39	890.22
Old Schemes	0.00	0.00	0.96	0.00	0.05	0.00	1.01
<b>Total</b>	<b>2,683.21</b>	<b>2,677.80</b>	<b>3,958.07</b>	<b>3,903.46</b>	<b>11,639.70</b>	<b>6,641.39</b>	<b>5,058.33</b>

**Fifth Control Period (in Rs. Crore):**

Particulars	Fifth Control Period (FY 2025-26 to FY 2029-30)		
	MYT Petition	Approved	Disallowance
DPR Schemes	45,330.18	0.00	45,330.18
100% funded	1,403.70	0.00	1,403.70
DPR approved schemes	16,616.67	12,784.38	3,832.29
<b>Total</b>	<b>63,350.56</b>	<b>12,784.38</b>	<b>50,566.18</b>

**Total disallowance for Fourth and Fifth Control Period:**

Particulars	Total 4 <sup>th</sup> & 5 <sup>th</sup> Control Period
	Disallowance
DPR Schemes	49,318.45
100% funded	1,582.53
DPR approved schemes	4,722.51
Old Schemes	1.01
<b>Total</b>	<b>55,624.50</b>

3. As is clear from the from the aforementioned tables, there is a total disallowance of Rs. 50,566.18 crore for the Fifth Control Period, and Rs. 5,058.33 crore for the

Fourth Control Period (for FY 2022-23 to FY 2024-25). It is humbly submitted that the aforementioned disallowances suffer from several manifest errors and apparent inconsistencies in approach adopted by this Hon'ble Commission.

4. As is also clear from the aforementioned tables, MSEDCL had also proposed capitalisation for four schemes funded completely from grants from Government of Maharashtra ("**GoM**"), with a cumulative projected capitalisation of INR 1582.29 crore. Given that these schemes are funded completely from grants received from the GoM, no in-principle approval of this Hon'ble Commission is required for these schemes as per Regulation 4.4 of the Capex Regulations. However, this Hon'ble Commission has committed a patent error by failing to approve the projected capitalisation for the said schemes.
5. In addition thereto, this Hon'ble Commission has also committed a serious manifest error by disallowing capitalisation of a total amount of Rs. 4,722.51 crore against capex schemes for which in-principle approval has already been granted by this Hon'ble Commission itself. Further, this Hon'ble Commission has disallowed capitalisation of Rs. 1.01 crore towards certain old schemes without specifying any reason.
6. The Review Petitioner has set out below its issue wise submissions in respect of the said disallowances:

*Capex disallowance for capex schemes for which DPRs are already submitted:*

7. It is stated that MSEDCL had submitted DPRs prepared for various critical and necessary Capex schemes, including those pertaining to system strengthening and modernisation required to suitably cater to the incoming large quantum of generation capacity to meet the increase in demand, cumulatively amounting to approximately INR 49,318.45 crore ("**Submitted DPRs**"), before this Hon'ble Commission for its in-principle approval between 01.10.2024 to 13.02.2025, in accordance with the provisions of MERC (Approval of Capital Investment Schemes) Regulations, 2022 ("**Capex Regulations**").

Scheme name	4th Control Period	5th Control Period	Total
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Scheme name	4th Control Period	5th Control Period	Total
System Strengthening (MSKVY 2.0)	758.20	1,596.17	2,354.37
MSKVY 2.0 Under RDSS	298.70	2,680.20	2,978.90
Off-grid Solar Photovoltaic Water Pumping Systems & Agricultural Feeder Solarisation Project with Conventional AG connections. (funded by AIIB) Component AA	100.00	1,428.68	1,528.68
Maharashtra Power Distribution Enhancement Program for Facilitating Solarisation and Expanding Agricultural Connections (Funded by ADB)	-	7,600.00	7,600.00
New Consumers 2025-2030	-	3,750.00	3,750.00
Special Assistance-Nagpur & Pune System Strengthening	16.00	139.73	155.73
SIDBI Cluster Development Fund (CDF)	40.00	210.00	250.00
Evacuation of Power from EHV Substation (Phase-IV)	4.00	151.00	155.00
Substation Monitoring System	186.36	124.24	310.60
Approval for installation of Rooftop solar at MSEDCL owned Building such as offices, substations, stores, Rest house and CFC's for total pf 50MW	85.00	199.50	284.50
RDSS-System Strengthening	2,500.00	27,450.67	29,950.67

Scheme name	4th Control Period	5th Control Period	Total
& Modernization			
<b>Submitted DPR Sub-Total (A)</b>	<b>3988.26</b>	<b>45330.18</b>	<b>49318.45</b>
Meter Replacement (Old Scheme)	0.02	-	0.02
System Improvement Scheme (Old Scheme)	0.99	-	0.99
<b>Old Schemes –Sub Total (B)</b>	<b>1.01</b>	<b>-</b>	<b>1.01</b>
<b>Total Disallowance (A+B)</b>	<b>3,989.28</b>	<b>45,330.18</b>	<b>49,319.46</b>

The details of the Submitted DPRs and the capex schemes, along with the disallowance details, in annexed hereto as **ANNEXURE P-3**.

8. It is submitted that the Submitted DPRs were prepared strictly in accordance with the provisions of the Capex Regulations, and they fall within the categories specified under Regulation 3.9 of the Capex Regulations, and none of the Submitted DPRs fall within the negative list of items specified under Regulation 3.19 of the Capex Regulations. Further, the Submitted DPRs also contain detailed information as required under Regulation 5.1 of the Capex Regulations, including a broad overview and technical and financial justification of the scheme.
9. In this regard, MSEDCL had received certain queries from this Hon'ble Commission vide email dated 13.02.2025, which have been duly responded to by MSEDCL vide its letter dated 13.03.2025. However, despite providing the requisite information and furnishing all the required information under the Submitted DPRs, the said DPRs are yet to be approved. As a consequence, this Hon'ble Commission, has rejected the projected capitalisation proposed for the said schemes in the MYT Order.

10. It is pertinent to reiterate that the capitalisation in the amount of Rs. 1,582.29 crore proposed even for the schemes entirely funded by grants has also been disallowed by this Hon'ble Commission, even though no prior in-principle approval is required for the said schemes, as stated above.
11. It is submitted that the aforesaid disallowance is a manifest error apparent on the face of the record as it has been carried out in contravention of express provisions of the MERC (Multi Year Tariff) Regulations, 2024 ("**MYT Regulations 2024**") and the Capex Regulations. In this regard, it is relevant to refer to Regulation 24.5 and 24.6 of the MYT Regulations 2024, which is excerpted below for convenient reference:

*"24.5 The Petitioner may project the capital expenditure and capitalisation plan for each year of the Control Period **as per its projected capital investment outlay and annual phasing plan with due justifications in accordance with provisions outlined under MERC (Approval of Capital Investment Schemes) Regulations, 2022**, as amended from time to time.*

*24.6 For the purpose of approval of projected capital expenditure plan and capitalisation plan for Control Period, the Commission shall take into consideration historical trend of capitalisation of approved capital schemes (DPR and Non-DPR), **projected growth in the distribution network, consumer base & demand, expected growth in generation capacity addition** and transmission network augmentation requirement, ongoing/pending capital schemes, status update of in-principle approved schemes, **status of tie-up of funds for various capex schemes** proposed by generation company, transmission licensee, distribution licensee, STU, SLDC, as the case may be."*

12. As is clear from the perusal of the aforementioned provisions, a distribution licensee is entitled to project its capital expenditure and capitalisation plan for each year of the control period as per *its* projected capital investment outlay. Further, Regulation 24.6 delineates the scope of review by this Hon'ble Commission of such projected capital expenditure and capitalisation plan. The said provision provides for various critical factors to be considered by this Hon'ble Commission while approving the licensee's proposal, including projected growth in distribution network, consumer base and demand, expected growth in generation capacity addition, etc., and does not restrict the decision-making process to scrutinising only past capitalisation trends. Limiting the decision-

making process to only past capitalisation trends or status of DPR approval would amount to imposition of unnecessary fetters in the decision-making process, which is not contemplated in the MYT Regulations.

13. Notably, the said provision does not in any manner restrict the approval of projected capex purely on the basis as to whether the DPR for the proposed scheme has been approved in-principle by this Hon'ble Commission under the Capex Regulations. In fact, to the contrary, such power to reject capitalisation on the basis of absence of in-principle approval has been provided under Regulation 29.9 of the MYT Regulations, which pertains to approval of capitalisation after completion of the works at the true-up stage.
14. The non-mandatory nature of requirement to obtain in-principle approval of DPR schemes for approval of proposed capex at the ARR stage is also borne out from this Hon'ble Commission's own order dated 28.03.2025 passed in Case No. 211 of 2024 filed by Adani Electricity Mumbai Limited (Distribution Business) for Approval of Truing-up of FY 2022-23 and FY 2023-24, Provisional Truing-up for FY 2024-25, and ARR and Tariff for Fifth Control Period from FY 2025-26 to FY 2029-30 ("**AEML MYT Order**"), filed under the MYT Regulations 2024. In the AEML MYT Order, this Hon'ble Commission itself has provisionally allowed the capitalisation for capex schemes for which DPR is submitted and is pending approval based on factors set out in Regulation 24.6 of the MYT Regulations, 2024. The table below, extracted from the AEML MYT Order, clearly shows that this Hon'ble Commission has allowed capitalisation for even such capex schemes whose DPR is currently pending approval:

**Table 5-60: Capitalisation approved for FY 2025-26 to FY 2029-30 (Rs. Crore)**

Particulars	FY 2025-26	FY 2026-27	FY 2027-28	FY 2028-29	FY 2029-30
<b>Capitalization Wires *</b>	<b>955.28</b>	<b>955.28</b>	<b>955.28</b>	<b>955.28</b>	<b>967.28</b>
Approved DPR	349.33	77.00	10.82	-	-
DPR submitted awaiting approval / yet to be submitted	485.89	758.29	824.46	835.28	835.28
Non-DPR	120.00	120.00	120.00	120.00	132.00
<b>Capitalization Supply</b>	<b>221.97</b>	<b>0.65</b>	-	-	-
Approved DPR	221.97	0.65	-	-	-
DPR submitted awaiting approval / yet to be submitted	-	-	-	-	-
Non-DPR	-	-	-	-	-

15. It is, therefore, submitted that this Hon'ble Commission has committed a serious error by rejecting the capitalisation proposed by the Review Petitioner solely on the ground that the Submitted DPRs are awaiting approval, without considering the other relevant factors set out in Regulation 24.6 of the MYT Regulations, 2024 and the critical nature of the said capex schemes and their expected benefits to the distribution network.
16. Indeed, even the Hon'ble Appellate Tribunal for Electricity ("APTEL") in *Karnataka Power Transmission Corporation Limited v. Karnataka Electricity Regulatory Commission and Ors.*, Appeal No. 84 of 2006, has rendered categorical findings regarding a licensee's autonomy to project and seek approval for capitalisation of Capex schemes, subject to true-up of such capitalisation based on prudence check (as is also contemplated under Regulation 29.9 of the MYT Regulations 2024). Some of the relevant excerpts of the aforementioned judgment of the Hon'ble APTEL in KPTCL case are set out below (emphasis supply):

- "6. *The functions of the State Commission are enumerated in Section 86 (1) (a) to (k) of The Electricity Act 2003. We notice from the above provision that the role played by the Commission in **slashing the investment is not one of the enumerated function** Section 86 (2) provides that the Commission shall advise the State Government on all or any of the matters enumerated in clauses (i) to (iv) of the said sub section. Section 86 (4) provides that the State Commission shall be guided by the National Electricity Policy, National Electricity Plan and Tariff Policy. Section 61 to 66 provides for framing Tariff regulations and determination of tariff. These provisions are also silent in this respect.*
7. *In contrast, Section 22 (2) of The Electricity Regulatory Commissions Act 1998, since repealed provided that the State Govt. may confer functions enumerated Clause (a) to (f) of Sub section (2) of Section 22. Section 22 (2) (a) reads thus :*

*"22. (2)(a) to regulate the investment approval for generation, transmission, distribution and supply of electricity to the entities operating within the State;" xxx xxx xxx*

**There is no parallel provision in Section 86 or any other provisions in The Electricity Act 2003 which will enable the**

**Commission to regulate the investment approval for generation, transmission, distribution and supply of electricity within the State, and it is not as if it is the repository of entire power or authority to control the whole spectrum of Transmission or Distribution including financial management of utilities or it has the power to micromanage the affairs of the utilities.**

8. The learned counsel appearing for the contesting respondents is unable to point out any provision in this respect. **Provisions of 2003 Act has made a deviation and that being the position we are at loss to know how the Commission could take upon itself to examine the sagacity of investment proposed by utility** in development or up gradation or maintenance of its system, by engaging a team of experts to review or study the merits of the proposal or plans to invest.
  
9. The only provision, if at all which has a relevance is Section 86 (2), which is advisory in nature. This being the position **it is obviously clear that the legislature has left it to the utilities to decide their plans of investment or improvement of system or expansion to meet the demand of power within their area** including up gradation and maintenance for a better and quality generation, transmission or supply as the case may be. **It is the commercial decision of the utility and its source to raise funds which falls within the domain of the utility and not liable to be interfered, except at the stage when utility claims for return on such investment, interest on capital expenditure and depreciation. It is at that stage the Commission shall undertake a prudent check and if deemed fit allow the claim. In appropriate cases the Commission may disallow such claims of utility and it is for the utility to bear the brunt of such investment and it cannot pass it on to consumers.**
  
10. We are unable to appreciate the procedure adopted by the Commission in appointing a Committee to examine the proposal or to find out whether it is feasible or not to implement the investment proposal. **It is being commented as a day dream on the part of utility. Yet they are within the domain, commercial decision and internal management of the utility** and there is time enough for the Commission to undertake prudent check when the utility comes forward to claim return on such investment. in its annual revenue requirement and till then the proposal to invest is well within the domain of the utility. It is sufficient if the utility confirms its proposal to invest.

11. *Further when the Technical Experts and Engineers, have applied their mind with respect to their proposal and plan it is not for the Commission to examine by appointing another expert Committee. No expert agrees with another expert as presumably either add or comment. By this it shall not be taken that we are commenting upon the expert Committee appointed by Commission. Even the Committee did not opine that the proposed capital investments are not at all required or otherwise not suitable nor an efficient proposal.*
  
12. **All that it is being pointed that it may not be possible to execute. Here again it is within the domain and control of the utility. Assuming that the utility has a dream, it is expected that it will wake up with determination and act, lest the State which owns the undertaking will not spare and accountability of the utility is unending to the State, State Legislature and audit by The Accountant General. The power demand is increasing by leaps and bounds and quality has to be maintained and this compels the utility to update its transmission system including reduction in transmission loss ordered by the Commission. It is not for the Commission to throw its spanner in the wheels of the utility when it has proposed to invest for the improvement and expansion of system after a study by its Technical Team and when its board has approved the investment proposals.**  
 ...
  
15. **The further approach that it is obligatory for the Commission to keep the cost of the power at the lowest possible level is not a proper approach. Being a regulator, the Commission has to approach such issues as a regulatory measure and not as if the Commission is there to protect the consumers alone. When the Commission expects the utility to upgrade its system of transmission or distribution or quality of service, it follows automatically that utility has to invest in upgradation, maintenance for providing quality service. This could be by way of balancing and not by approaching the issue as if the consumer has to pay at the lowest rate. When the consumer expects quality service, the consumer should be prepared to pay a reasonable charge and here the role of Regulator is vital and it has to balance between the two. If timely capital investment is not made to improve the system then the quality of service by the utility cannot be complained either by consumers nor it could be commented by Regulator.** *The appointment of an expert*

committee by the regulator at the stage of proposal to invest is neither warranted nor justified as the plan to invest, estimate of investment and the program of up gradation or extension or development of transmission system is exclusively within the domain of transmission utility.

16. **Even if the proposal to invest is over ambitious, the utility might improve itself or act in such an improved speed to execute the work, but that does not mean that the utility or its managers or top brass should not have imagination or over ambitious which target they set up for themselves to achieve in the course of the year.** It follows that as and when the project is executed and investment is made, the same will have financial implications on the sector and consumer tariff but that has to be balanced by the first respondent. The regulator is not going to approve the expenditure or approve the financial charges just for asking and the regulator has to satisfy itself by a prudent check with respect to capital investment and in case they contribute for the quality or development or providing better service, the regulator may include and pass on the consequences of such investment to the consumers. **Day by day demand increases and number of consumers are also increasing. The utility has to serve a number of metropolitan cities where the need for power is ever increasing. Therefore, the transmission utility has to estimate or at least imagine and estimate the requirements in advance for the future years to serve the consumers.**
  
17. **To decry the utility and its technical experts or engineers is also not called for as it is for them to rise up to their planning and implement it.** The expert committee has not stated that the proposed investment is not required at all and none of the proposals have been commented as not called for by the expert committee appointed by the Regulator. **The efficiency to implement the projects or investments, if the utility fails to achieve, then it cannot pass on the consequences of such investment to the consumers. The investment made on the earlier years cannot be a basis to restrict investment for the current year 2007 or the following years.**
  
- ...
  
19. A reference is made to license condition No.12, in our view such a condition referred to by the 1st respondent just provides that the licensee shall not make any investment except in economic and efficient manner. This will not in any manner could be used as a trump card to interfere with the proposals or future investment plans

of the utility. **The utility might have placed its investment plan before the Commission but this does not mean that the Commission has a full and complete authority to decide as to when and how the projects are to be executed or when it should not be executed.** A condition might have been imposed in the license under the earlier enactment and The Electricity Act 2003 has made the difference. **The claim of the 1st respondent that it is empowered to interfere with investment proposal made by the appellant and substitute its recommendations in respect of the same in our considered view is far-fetched. If such a stand is to be sustained then utility will be a depart mart of the Commission and the Commission may not be exercising its power or functions as a regulator but as a head of the utility. This is not the object of the 2003 Act. It shall not be lost sight that the regulator has no budget or funds of its own to invest nor it could interfere with the micro management of the utility.**

20. The preamble of the Act shall not be lost sight of, where in it has been emphasized that the object of the Act being to take measures conducive to development of the electricity industry, promote competition there in, protecting interest of consumers and supply with electricity to all areas etc. A question may be raised as to the effectiveness of capital investment and further question that if such investment is found to be a waste or otherwise not required which may result in waste of funds of utility. This overlooks the fact that the utility being a State undertaking is controlled by its Board and responsible officials of the State and it is subject to the control and approval of the State in such matters which provides funds for such investments or over see such investments. For all these reasons we are not persuaded to accept the line of reasoning assigned by the Commission.
21. The Commission overlooked the fact that the appellant being transmission utility transmitting power throughout the State for the bulk supply as well as distribution as an obligation to maintain the supply as well as quality supply and when the demand increase, either at the level of distribution or at the level of bulk supply it is the transmission licensee who should provide for the supply. This obviously means that the transmission utility has to plan in advance and should be in a position to supply power as demanded from time to time. Section 42, 43 of The Electricity Act 2003 also should not be lost sight of. To meet the ever increasing demand consequent to development and improvement in the status of the consumer public, industrialization, computerization, heavy industries and requirement increases by geometric proportion, it is for the transmission utility or

*such other utility to estimate the future demands as well, besides improving the quality and standard of maintenance. **This is possible only if the utilities have the freedom to plan with respect to their investment, standardization, upgrading of the system. For such a course it is within the domain of those utilities to undertake to plan, invest and execute the projects or schemes of transmission etc.** If the view of the Commission is to be sustained, as already pointed out, **the same would mean for each and every investment an approval has to be sought by the utility in advance which is not the objective of The Act.***

...

23. **The Karnataka Electricity Regulatory Commission has not acted reasonably or fairly in interfering with the internal, commercial, management and domain of the transmission utility with respect to its commercial plan and proposal to invest a substantial sum.** We have made ourselves clear and in the future years to come the Commission will take this into consideration and will act accordingly. The point 'A' is answered in the above terms."

17. As is clear from the aforesaid judgment, the Hon'ble APTEL has clearly delineated the role of the regulatory commission in respect of capex plans of licensees. Indeed, this Hon'ble Commission's MYT Regulations 2024 also appear to be broadly consistent with the aforementioned approach, as they contemplate only a disallowance of the capitalisation at the true-up stage under Regulation 29.9. Such being the case, the MYT Order suffers from a manifest error apparent on the face of the record as the disallowance of proposed capex and capitalisation plan at the ARR stage itself is grossly contrary to the provisions of this Hon'ble Commission's own MYT Regulations 2024 and its own AEML MYT Order.
18. Be that as it may, the Review Petitioner has set out below further points for kind consideration of this Hon'ble Commission in respect of the erroneous disallowance of Capex proposed for the Fifth Control Period:
- 18.1 **Rejection of capex was done without any due application of mind or consideration of factors set out in MYT Regulations 2024:** It is submitted that this Hon'ble Commission has failed to apply the principles set out in Regulation 24.6 of the MYT Regulations while granting Capex approval as it has restricted its decision making process only to past capitalisation

trends and availability of in-principle approval of DPRs, while ignoring the other important factors. This includes the non-consideration of projected distribution growth, capacity addition, and demand growth. The lack of application of these principles has resulted in an arbitrary and unjust disallowance of capital expenditure, which is essential for the sustainable growth and development of the distribution network. In this regard, reference may be had to the table below, which shows a consistent growth in the addition of generation capacity, peak demand and no. of consumers over the Fifth Control Period, whereas the quantum of approved Capex over the same period is manifestly adequate and sees a clear downward trend:

Particulars	FY 2025-26	FY 2026-27	FY 2027-28	FY 2028-29	FY 2029-30
<b>Capitalization (Rs. Crs.)</b> <i>(as approved in the MYT Order)</i>	9,319	2,973	1,556	1,369	1,371
<b>Peak Demand (MW)</b> <i>(as per the RA Plan)</i>	27,732	30,520	33,521	34,287	35,334
<b>Number of Consumers</b>	3,24,91,795	3,33,78,773	3,42,92,210	3,52,32,842	3,62,01,521
<b>Generation Capacity Addition (MW)</b>	10,008	12,152	4,922	3,454	5,466

It is pertinent to highlight that even noted research organizations such as Prayas Energy Group have acknowledged the anticipated benefits of the proposed capex schemes in their submissions to the MYT Petition, which has been noted in the MYT Order in the following manner:

"2.14.4 **Smart metering, along with MSEDCL's proposed capital expenditure of Rs. 62,870 Crore for system strengthening, shall facilitate this loss reduction. If**

**achieved, it could generate additional revenue of Rs. 17,036 Crore without increasing consumer tariffs...**

It is further submitted that rejection of capex approval for schemes such as system strengthening and modernisation scheme, evacuation of power scheme, whose key objective is towards reduction of distribution losses, also runs contrary to this Hon'ble Commission's own directives to the Review Petitioner to reduce the distribution losses over the Fifth Control Period. The Review Petitioner cannot be reasonably expected to conform to the said loss reduction trajectory if it is not allowed the necessary capex to achieve the said objective. Further, failure to do so will ultimately result in the losses being passed on to the Review Petitioner itself, resulting in a double whammy to the Review Petitioner, for no fault of its own.

In this regard, it is also relevant to reiterate the principles set out in the Hon'ble APTEL's judgment in *KPTCL* case (supra), which emphasizes that the regulatory commission must not interfere with the internal management and commercial decisions of the utility, especially when such decisions are based on technical expertise and are aimed at improving the system's efficiency and reliability.

- 18.2 **Non-consideration of Submitted DPRs:** It is further submitted that this Hon'ble Commission has failed to consider the schemes for which Detailed Project Reports (DPRs) have already been submitted since October 2024, with clarifications provided in March 2025. The non-consideration of these DPRs shall result in the delay and non-implementation of critical schemes, which may have a debilitating impact on its operations and its ability to reliably serve its consumers and reduce the distribution losses, which is one of the key objectives of the Review Petitioner. Here, it is pertinent to reiterate that the Hon'ble APTEL's judgment in the *KPTCL* case underscores the importance of considering the utility's detailed project reports and the technical justifications provided therein, subject to a prudence check at the true-up stage. It is also pertinent to reiterate the fact that the approach taken by this Hon'ble Commission in the present MYT Order is squarely inconsistent with the approach followed in the AEML MYT Order, where this Hon'ble Commission has permitted the proposed capitalisation for the Fifth Control Period for capex schemes which are still pending approval.

- 18.3 **Substantial financial impact and burden of Carrying Cost:** It is submitted that the disallowance of capital expenditure at the ARR stage

pending the approval of the DPRs has a substantial financial impact on MSEDCL, which cannot be offset through internal accruals pending the Mid Term Review (**MTR**), as has been suggested by this Hon'ble Commission in the MYT Order. The burden of carrying cost and Interest During Construction (IDC) further exacerbates the financial strain on MSEDCL, which shall be ultimately passed on to its consumers, thereby having an adverse impact on tariff. It is submitted that the actual capitalisation will be subject to prudence check, and any disallowed amount may be adjusted in the tariff at the MTR stage, with carrying cost, thereby protecting public interest in any event. It is further submitted that even if it were to be assumed that the Review Petitioner may carry out such capex schemes through its working capital funds, such an approach would be impractical as the Review Petitioner will be unable to service the interest of such working capital facilities obtained to carry out the capex schemes as the interest on working capital is payable on a normative basis.

- 18.4 **Reliance on past capitalisation trends to disallow future CAPEX:** It is submitted that this Hon'ble Commission has grossly erred by disallowing the proposed Capex for the Fifth Control Period by relying on the purportedly low capitalisation trends of the licensee in the previous control period. This approach is flawed as it fails to consider the evolving needs and growth projections of the distribution network. The Hon'ble APTEL's judgment in the *KPTCL* case clearly states that past performance should not be the sole criterion for disallowing future investments. The judgment emphasizes that each investment proposal should be evaluated on its own merits, considering the current and future requirements of the utility. The reliance on historical data without considering the dynamic nature of the distribution business and the necessity for continuous improvement and expansion is arbitrary and unjustified, and demonstrates lack of application of mind and non-consideration of factors mentioned in Regulation 24.6 of the MYT Regulation 2024 in totality. Here, it is also pertinent to highlight that the Hon'ble Commission has failed to appreciate the justification for the higher capitalisation proposed for the Fifth Control Period (which included unprecedented growth in addition of generation capacity, solarisation of AG feeders pursuant to GoM schemes, increase in peak demand and number of consumers, etc.).
- 18.5 **DPR Specific Submissions:** The submitted DPRs include a summary of justifications for the proposed schemes and highlight the adverse impact of delay or non-implementation on the distribution business and consumers. The

MERC's disallowance of these schemes is unjustified and detrimental to the overall efficiency and reliability of the distribution network.

A summary of the said DPRs including the relevant information regarding the justification and necessity to undertake such schemes is annexed hereto as **ANNEXURE P-4**.

*Capitalisation disallowance for schemes 100% funded by grants and consumer contribution:*

19. It is submitted that this Hon'ble Commission has grossly erred by disapproving the capitalisation proposed in respect of capex schemes funded 100 percent by government grants or consumer contribution. The details of such capex schemes along with the associated disallowance details is set out in the table below (in Rs. crore):

Scheme name	Nature of Grant	4th Control Period	5th Control Period	Total
Sukanu Samiti for 2019-20	100% Consumer Contribution	0.25	0.00	0.25
Underground works of extended area of Baramati Municipal Corporation	100% Grant Scheme	38.51	9.10	47.61
RDSS-DVP of Particular Vulnerable Tribal Group (PVTG)	100% Grant Scheme	20.00	10.30	30.30
TSP Grant substation scheme	100% Grant Scheme	112.08	855.00	967.08
Nagpur OH to UG	100% Grant Scheme	8.00	529.30	537.30
<b>Total Disallowance</b>		<b>178.83</b>	<b>1403.70</b>	<b>1582.54</b>

An excel sheet containing detailed year wise computation of the capex disallowance for government funded and consumer funded scheme is annexed hereto as **ANNEXURE P-5**.

20. The disallowance with respect to the capex schemes proposed to be funded entirely by GoM grants is not only manifestly contrary to the MYT Regulations 2024, but is also contrary to Regulation 4.4 of the Capex Regulations, as no prior in principle approval is required for such schemes. The disallowance of capex for such schemes clearly points to an error apparent on the face of the record, which must be corrected immediately.

*Capitalisation disallowance for the DPR approved schemes for Fourth and Fifth Control Period:*

21. It is stated that while passing the MYT Order, apart from approving the ARR for the Fifth Control Period, this Hon'ble Commission has also carried out a true-up for FY 2022-23 and FY 2023-24 and a provisional true-up for FY 2024-25. While doing so, this Hon'ble Commission has erroneously disallowed the capitalisation for certain capex schemes citing non-approval of the DPR for the said schemes, even though the said DPRs for the said schemes have already been approved by this Hon'ble Commission. It is submitted that such error is an apparent error which ought to be corrected by this Hon'ble Commission in exercise of its review jurisdiction.
22. The details of such schemes and the associated disallowance is set out below for ease of reference:

<b>Scheme name</b>	<b>In Principle Approval No.</b>	<b>4th Control Period</b>	<b>5th Control Period</b>	<b>Total</b>
DPDC / Non-Tribal	MERC /CAPEX/2019-20/for DPDC 2019-20	401.06	2925.30	3326.36
DPDC / SCP (Loan up to 2012-13)	MERC /CAPEX/2019-20/for DPDC 2019-20	86.05	490.25	576.30
DPDC / TSP + OTSP	MERC /CAPEX/2019-20/for DPDC 2019-20	13.08	168.95	182.03

Scheme name	In Principle Approval No.	4th Control Period	5th Control Period	Total
Evacuation of Power from EHV Substation (Phase-III)	MERC/Capex/2022-23/673	20.00	135.81	155.81
RDSS-Raynagar Colony Solapur - PMAY	MERC/Capex/MSEDCL/2023-24/179	29.86	28.05	57.90
RDSS-Cyclone Resilient Network NCRMP Works	MERC/Capex/MSEDCL/2023-24/0179	340.00	83.93	423.93
DELP	MERC/Cell No 6/DSM/MSEDCL/204 dated 29 May 2015	0.17	0.00	0.17
<b>Total disallowance</b>		<b>890.22</b>	<b>3,832.29</b>	<b>4,722.51</b>

An excel sheet containing detailed year wise computation of the capex disallowance for DPR approved schemes is annexed hereto as **ANNEXURE P-6**.

23. In view of the aforementioned facts and submissions, it is humbly submitted that the MYT Order suffers from serious apparent errors and mistakes which have resulted in the disallowance of significant cost associated with various capex schemes which are critical for the safe and reliable operations of the distribution network of the Review Petitioner. It is respectfully urged that this Hon'ble Commission may be pleased to review and rectify the aforementioned errors and inconsistencies and allow the capex expenses as sought in the MYT Petition, along with consequential revision of O&M expenses, depreciation, interest on loan, return on equity and any other consequential financial impact, associated with such capex schemes.

**II. Manifest errors in Hon'ble Commission's power procurement model and projection of total sales resulting in significant disallowance of power purchase cost for the Fifth Control Period**

24. It is stated that this Hon'ble Commission, while approving the energy balance and approved power purchase cost of the Review Petitioner for the Fifth Control Period, has not only carried out its own assessment of projected energy requirements of the Review Petitioner, it has also undertaken its own simulation exercise for allocation of demand across the projected generation profile available for calculating the projected power purchase cost for the Review Petitioner. In doing so, this Hon'ble Commission has ignored the estimates and assessment provided by the Review Petitioner and has substituted the same with its own views and assumptions. While the said approach, even in principle, is patently contrary to settled principles of tariff determination, it is submitted that notwithstanding the same, there are several manifest factual and technical errors apparent on the face of the record in the assumptions and computations carried out by this Hon'ble Commission.
25. In this regard, it is pertinent to set out at the outset the principles laid down by the Hon'ble APTEL regarding the role of the SERC in respect of estimation of power purchase requirements of a distribution licensee, as laid down in its judgment dated 07.02.2008 passed in *Bangalore Electricity Supply Co. Ltd. and Ors. v. Karnataka Electricity Regulatory Commission and Anr.*, Appeal No. 250 of 2006 (emphasis supplied):

"28. **The basic issue before us is as to who should estimate the power requirement. It is the responsibility of the appellant to ensure power supply and also give new connections required during the year. The DISCOM have their own planning departments where experts assess the power requirements.** This Tribunal in its judgment in Appeal No. 84 of 2006, dated August 29, 2006, in case of KPTCL vs KERC has decided that it is for the utility to estimate the future demands. Relevant para from our judgment is extracted below:

*"The Commission overlooked the fact that the appellant being transmission utility transmitting power throughout the State for the bulk supply as well as distribution as an obligation to maintain the supply as well as quality supply and when the demand increase, either at the level of*

*distribution or at the level of bulk supply it is the transmission licensee who should provide for the supply. This obviously means that the transmission utility has to plan in advance and should be in a position to supply power as demanded from time to time. Section 42, 43 of The Electricity Act 2003 also should not be lost sight of. To meet the ever increasing demand consequent to development and improvement in the status of the consumer public, industrialization, computerization, heavy industries and requirement increases by geometric proportion, it is for the transmission utility or such other utility to estimate the future demands as well, besides improving the quality and standard of maintenance. This is possible only if the utilities have the freedom to plan with respect to their investment, standardization, upgrading of the system. For such a course it is within the domain of those utilities to undertake to plan, invest and execute the projects or schemes of transmission etc. If the view of the Commission is to be sustained, as already pointed out, the same would mean for each and every investment an approval has to be sought by the utility in advance which is not the objective of the Act."*

29. ***It is not for the Commission to assume day to day duties and responsibilities of the appellant as it is the appellant alone who has to ensure power supply and who should estimate the requirement of power. Anyway, at the end of the year the truing up has to be done. The appellants have fairly submitted that in case of any over recoveries they will refund the excess amounts collected by them with interest to the consumers.***

...

33. *In view of the aforesaid discussions and since interest of the consumers is being protected by the appellants, **we hold that the Commission should allow the power requirement as estimated by the appellants.***"

26. As is clear from the aforementioned judgment of the Hon'ble APTEL, regulatory propriety demands that State Electricity Regulatory Commissions ("SERC"), at the ARR determination stage, should not interfere with the assessment and projections made by experts employed by distribution licensees in their planning departments, and it is only at the stage of true-up that the regulatory commissions should determine the actual power purchase cost and make adjustments for any over recoveries. This approach not only safeguards the

financial health of the distribution licensees, but also reasonably protects public interest as any over-recovery is recouped with interest and passed on to the consumers.

27. On the other hand, any erroneous under representation of power purchase cost at the ARR stage shall lead to FAC shock resulting in only a mere illusion of reduced tariff. Such an approach may lead to discontent amongst the consumers, which is not desirable. This approach further affects the industrial consumers as subsequent imposition of unanticipated steep FAC may upset their budgetary planning and operational expenses, which is not desirable. As such, best practices require that the tariff determination should reflect the true cost of supply.
28. It is humbly stated that the said manifestly erroneous approach adopted by this Hon'ble Commission has resulted in a significant reduction in the total power purchase quantum and power purchase cost allowed by this Hon'ble Commission in the MYT Order for the Fifth Control Period, which will have a crippling effect on the Review Petitioner's financial ability to procure sufficient quantum of energy to ensure reliable supply of power to its consumers over the Fifth Control Period. A brief description of the year wise total energy requirement and total power purchase cost, as projected by the Review Petitioner and as allowed by this Hon'ble Commission is set out below:

FY	Total energy requirement (in MUs)		Disallowed Quantum		Total power purchase cost (in Rs. crore)	
	As per MSEDCL	As approved	Mus Term	% wr.to MSEDCL proposed	As per MSEDCL	As approved
2025-26	1,86,203	1,72,700	13,503	7.3%	93,956	85,182
2026-27	2,18,172	1,80,111	38,061	17.4%	1,04,871	88,626
2027-28	2,29,387	1,90,659	38,728	16.9%	1,12,578	94,256
2028-29	2,38,063	1,95,766	42,297	17.8%	1,19,149	1,00,505
2029-30	2,43,337	2,03,301	40,036	16.5%	1,24,790	1,06,708

<b>Total</b>	<b>11,15,162</b>	<b>9,42,537</b>	<b>1,72,625</b>	<b>15.5%</b>	<b>5,55,344</b>	<b>4,75,277</b>
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29. As it evident from the aforementioned table, this Hon'ble Commission has disallowed a total quantum of 1,72,625 MUs of power purchase quantum for the Fifth Control Period and has also disallowed approximately Rs. 80,067 crore toward power purchase cost for the same period. It is submitted that the said disallowances amount to an approximate 15.5 % reduction over the quantum estimated and projected by MSEDCL, and thereby represents a very significant share of the total power purchase cost estimated by MSEDCL.
30. Given the substantial quantum of mismatch in projection and the alarming financial impact thereof, the Review Petitioner cannot fund this anticipated shortfall from its internal accruals and will hence seriously impinge on its ability to procure power and service its financial commitments to the contracted generators. This will affect the reliability of supply to its consumers and may also result in the Review Petitioner defaulting its payment obligations to its generators, which will not only result in LPS liability but may also invite penal action under the LPS Rules, further crippling the Review Petitioner's ability to serve its consumers. Needless to add, any such revenue gap at the time of true-up will result in the consumers being saddled with unnecessary carrying costs. Overall, this unjustified and significant reduction in approved power purchase costs will have dire consequences on the financial and operational health of the Review Petitioner, which shall not be in the public interest. On the other hand, no prejudice will be caused to the consumers of the Review Petitioner as even if its projected power procurement cost is approved at this stage, it shall be subject to true up at the MTR stage, and any revenue surplus may be adjusted along with appropriate carrying costs.
31. Having highlighted the seriousness and gravity of the issue involved, the Review Petitioner has set out below its detailed submissions on the matter:

**Re: Several apparent errors in model for projection of power purchase for the Fifth Control Period and estimation of power purchase expenses**

- 31.1 It is humbly submitted that there are several apparent errors and manifest inconsistencies in the model and assumptions adopted by this Hon'ble Commission for projecting the power purchase expenses for the Fifth Control

Period. It is submitted that the said errors have serious financial implications on the Review Petitioner's distribution business. As per the Review Petitioner's estimates, even if this Hon'ble Commission's projection of total sales and power purchase requirement (in MUs) is assumed to be correct, the adverse financial impact of the errors in the model applied for projection of the power purchase cost is approximately Rs. 69,824 crore for the Fifth Control Period. The Review Petitioner's submissions in this regard are set out below:

- 31.2 It is stated that this Hon'ble Commission has observed at paragraph 5.9.18 of the MYT Order that the Review Petitioner's *"proposed power procurement and dispatch planning does not appear to be optimal"* and has accordingly further observed at paragraph 5.9.19 that ***"MSEDCL should revisit its MOD assumptions to ensure that, available resources are utilised effectively and results in reduction in power procurement costs over the 5th Control Period"***.
- 31.3 However, despite expressly observing that MSEDCL is required to revisit its MOD assumptions for effective utilisation of available resources, this Hon'ble Commission has erroneously decided to carry out the MOD simulations itself based on its own despatch model and assumptions. The relevant observations of this Hon'ble Commission in the MYT Order are set out below for ease of reference:

*"5.9.20 In view of the above, based on the information about contracted capacity and hourly data profile submitted by MSEDCL for demand, non-firm generation resources including hydro generation profiles, **the Commission has undertaken the hourly MoD simulations for despatch of projected available thermal generation resources to estimate the hourly, monthly and annual power purchase quantum and costs thereof from such resources.** The Commission has considered existing tied-up sources as well as planned and future capacity additions, Fixed Costs and Variable Costs of these resources."*

- 31.4 Without prejudice to the Review Petitioner's submissions regarding the errors and inconsistencies in the simulation and projection for the power purchase expenses (which are set out in detail in later part of these submissions), it is submitted that this approach of this Hon'ble Commission to itself run the simulations and prepare the power procurement plan for the Review

Petitioner is patently incorrect, contrary to settled law and beyond the scope of tariff determination process, as delineated in the MYT Regulations 2024.

- 31.5 In this context, it is pertinent to refer to the judgment of the Hon'ble APTEL in the *BESCOM case* as cited in paragraph 30 above, where the Hon'ble APTEL has unequivocally held that power procurement planning falls squarely within the purview of the distribution licensee and that the role of the regulatory commission is limited to ensure compliance with the regulatory framework, rather than to override or substitute the strategic decisions and operational planning of the licensee. Indeed, even the MYT Regulations 2024 recognise the said principle as Regulation 20.1 thereof makes it incumbent upon the distribution licensee (as opposed to this Hon'ble Commission) to prepare the power procurement plan to serve the demand in its licensed area.
- 31.6 It is humbly submitted that optimising despatch of power according to dynamic demand requirements and other environmental factors are strictly within the domain of the distribution licensee as it is the licensee who is responsible for operating the distribution business and serving its consumers on a day to day basis, as is best placed to decide optimal despatch schedule considering the relevant factors.
- 31.7 It is further humbly submitted that this Hon'ble Commission, while reviewing the licensee's proposal may certainly identify any errors or potential operational inefficiencies, but even in such cases, this Hon'ble Commission's role is limited to giving appropriate directions to the licensee to make necessary corrections. It is most humbly submitted that as per settled law and the regulatory framework under the MYT Regulations 2024, it is impermissible for this Hon'ble Commission to step into the shoes of the licensee itself and prepare its own procurement and despatch model.
- 31.8 It is, therefore, submitted that this Hon'ble Commission's decision to conduct its own simulations and redo the power procurement plan based on its own model is manifestly erroneous and deserves to be reviewed on this ground alone.
- 31.9 Without prejudice to the aforementioned submissions, it is submitted that power procurement model adopted by this Hon'ble Commission itself suffers from several factual and technical errors, which are apparent on the face of

the record, and requiring immediate review and rectification. The said errors are briefly listed below and discussed in detail thereafter:

- (i) Non-consideration of technical minimum and ramp-up, ramp-down principles for despatch of generation from thermal power projects and number of start/stop operations permitted for Thermal Generating station during a year;
- (ii) Non-consideration of significant changes in demand profile in Fifth Control Period vis-à-vis FY 2023-24;
- (iii) Discrepancy between Distributed Solar CUF assumed in the MYT Order and applied in the overall power procurement model for Distributed Solar projects; and
- (iv) Inconsistency in energy requirement considered at state periphery in the power procurement model and in MYT order.

(i) **Non-consideration of technical minimum and ramp-up, ramp-down principles for despatch of generation from thermal power projects:**

31.10 It is stated this Hon'ble Commission at paragraph 5.9.25 has set out the following approach adopted by it in re-running the simulations:

"5.9.25 ...*The Commission has considered the Hourly Generation Profile of Must Run Generating stations as submitted by MSEDCL. The Commission has considered that, the load shall be first met with Must Run Generators and the Hourly MOD shall be operated for the **balance load considering available generation from the existing contracted and planned thermal generation in merit order.***

5.9.26 *The Commission recognises that such hourly despatch simulations would entail extensive use of energy modelling tools **as well as factoring of all operating constraints such as ramp-up, ramp-down, technical minimum, compensation for part load operation, factoring of outages (planned/forced) and associated start-up, shut-down costs thereof, as part of such modelling exercise.** Besides, such simulations should be undertaken for multiple scenarios, probabilistic assessment for variation in variable renewable energy generation scenarios*

*considering changes in weather patterns, **analysis of stress hours/periods, seasonal variations in demand patterns**, short term market scenario, etc. to arrive at optimal despatch results to aid optimal power procurement decisions...”*

- 31.11 In this regard, it is stated that while this Hon’ble Commission has noted in the aforementioned paragraphs that it has factored in operational constraints such as ramp-up, ramp-down, technical minimum and associated start-up, shut-down costs thereof, a technical scrutiny of the model adopted by this Hon’ble Commission for allocation and determination of power purchase cost (“**Hon’ble Commission’s Model**”) clearly shows that the said considerations have been conspicuously and erroneously overlooked by this Hon’ble Commission.
- 31.12 It is submitted that while the Hon’ble Commission has applied the bucket-filling approach for meeting daily demand, the said approach has erroneously failed to take into account unavoidable ramp-up, ramp-down and technical minimum constraints of thermal generating units/stations. For instance, the model for FY 2025-26 assumes a despatch of 0.527 MU from the Bhusawal-6 unit on 01.03.2026 from 11:00 hrs to 12:00 hrs, however, it has assumed “Nil” (zero) despatch from the same project in the very next hour, which is technically impermissible and contrary to provisions of the MERC (State Grid Code) Regulations, 2020 as well as the CERC (Indian Electricity Grid Code) Regulations, 2023 (collectively, “**Grid Codes**”). The model adopted also assumes frequent shuts down and re-starts of thermal power projects, which is technically impermissible and also contrary to provisions of the Grid Codes and standard operating norms of thermal power projects.
- 31.13 It is humbly submitted that there are several similar instances across the entire control period as the model suffers from an apparent conceptual error where bucket filling approach has been applied to meet daily demand without taking in consideration these unavoidable operational constraints. In this regard, reference may be had to the following snapshot taken from the model formulated by this Hon’ble Commission in the MYT Order for FY 2025-26, where the thermal plants are switched off completely in the next hour after running at full capacity in the previous hour. In a few cases, the plants are switched on and off consecutively within 2-3 hours:

MoD for FY 2025-26					38	39	40	41	42	43	44	45
Date	Day	Month	Year	Hours	NTPC Solapur	Bhusawal - 3	Parli Replacement U 8	GTPS Uran	Nashik- 3,4 & 5	Parli - 6 & 7	Kawas	Gandhar
4/7/2025	07	April	2025	1	0.542	0.150	0.172	0.268	0.394	0.320	0.163	0.159
4/7/2025	07	April	2025	2	0.542	0.150	0.172	0.268	0.394	0.320	0.163	0.159
4/7/2025	07	April	2025	3	0.542	0.150	0.172	0.268	0.394	0.320	0.163	0.159
4/7/2025	07	April	2025	4	0.542	0.150	0.172	0.268	0.394	0.320	0.163	0.159
4/7/2025	07	April	2025	5	0.542	0.150	0.172	0.268	0.394	0.320	0.163	0.159
4/7/2025	07	April	2025	6	0.542	0.150	0.172	0.268	0.394	0.320	0.163	0.159
4/7/2025	07	April	2025	7	0.542	0.150	0.172	0.268	0.394	0.320	0.163	0.159
4/7/2025	07	April	2025	8	0.542	0.150	0.172	0.268	0.394	0.320	0.163	0.159
4/7/2025	07	April	2025	9	0.542	0.150	0.030	-	-	-	-	-
4/7/2025	07	April	2025	10	-	-	-	-	-	-	-	-
4/7/2025	07	April	2025	11	-	-	-	-	-	-	-	-
4/7/2025	07	April	2025	12	-	-	-	-	-	-	-	-
4/7/2025	07	April	2025	13	-	-	-	-	-	-	-	-
4/7/2025	07	April	2025	14	-	-	-	-	-	-	-	-
4/7/2025	07	April	2025	15	-	-	-	-	-	-	-	-
4/7/2025	07	April	2025	16	-	-	-	-	-	-	-	-
4/7/2025	07	April	2025	17	-	-	-	-	-	-	-	-
4/7/2025	07	April	2025	18	0.109	-	-	-	-	-	-	-
4/7/2025	07	April	2025	19	0.542	0.150	0.071	-	-	-	-	-
4/7/2025	07	April	2025	20	0.542	0.150	0.172	0.133	-	-	-	-
4/7/2025	07	April	2025	21	0.436	-	-	-	-	-	-	-
4/7/2025	07	April	2025	22	0.154	-	-	-	-	-	-	-
4/7/2025	07	April	2025	23	0.467	-	-	-	-	-	-	-
4/7/2025	07	April	2025	24	0.542	0.150	0.172	0.040	-	-	-	-
4/8/2025	08	April	2025	1	0.542	0.150	0.172	0.268	0.033	-	-	-

31.14 As can be seen from above table, NTPC Solapur schedule for 9<sup>th</sup> Hour was 0.542 MUs i.e. 542 MW and in next Hour same is reduced to zero MUs, which denotes Reserve Shut Down (**RSD**) / Zero Schedule. This shows that the model of this Hon'ble Commission has considered a ramp down rate of 9.03 MW/minute for the said project, whereas the actual ramp down rate of NTPC Solapur project is 6.22 MW/minute; provided that both units of Solapur station are in operation and there is no upward or downward revision from other beneficiaries. However, in case downward revision request from other beneficiaries is also considered then for MSEDCL's share such ramp down rate from downward revision is not possible. Similarly, as can be seen from above table, for Bhusawal-3, Unit is ramped down to "Zero" in 10<sup>th</sup> time block and again ramp up from zero to 150MW in 19<sup>th</sup> Block i.e. ramp rate of 2.5MW/minute as against actual ramp rate of 1.87 MW/minute. Further, for any thermal unit starting from zero, a minimum period of 3-4 hours is required to achieve full generation, considering various technical parameters to be maintained, such as steam pressure, temperature, etc. It is, therefore, submitted that the ramp rate considered by Hon'ble Commission in its model is technically impermissible and suffers from a serious apparent error. The Review Petitioner has observed the same error been committed several times in respect of almost all other thermal stations in the model adopted by this Hon'ble Commission.

31.15 Similarly, as can be seen from table above, Parli Unit 8 is put to RSD from 9<sup>th</sup> hour and subsequently restarted from 19<sup>th</sup> Hour and once again put to RSD in 21<sup>st</sup> hour. Not only is this schedule in apparent violation of ramp-up ramp-down requirements, but is also in clear violation of provisions of MERC (State

Grid Code), 2020 in respect of minimum gap between RSD and restart of the plant. The relevant provision is set out below:

*"36.7 The proposed RSD shall be minimum for the period of 72 hours and may be extended as per the system condition. The ramping up and ramping down at the specified rates should be allowed for bringing back the unit on bar and the DC for this period shall be preserved. However, generator would make all efforts to minimize the lit-up time."*

31.16 The model also fails to take into the financial implications of scheduled generation falling below technical minimum limits, compensation payable for RSD (as provided in IEGC and SGC at **ANNEXURE 6: Mechanism for Compensation for Degradation of Heat Rate, Auxiliary Consumption and Secondary Fuel Oil Consumption Due to Part Load Operation and Multiple Start/Stop of Units of Intra-State Generators Connected to InSTS in Maharashtra State**), etc., which is a patent error apparent on the face of the record. In addition to the same, the model also fails to take into account strategic non-scheduling of power from thermal power projects based on dynamic assessment of demand by the licensee, where the power purchase is optimised based on cheapest available sources of power on a real-time basis.

31.17 It is stated that if the aforesaid principles are suitably applied to the model adopted by this Hon'ble Commission, keeping all other assumptions constant, the net financial impact over the Fifth Control Period shall be approximately Rs. 69,824 crore. The details of the said computation are set out below:

Approved as per Model			Revised Model with rectification of Technical Minimum			
Year	Approved PP MUs	Approved Total PP Cost	PP MUs with Tech min	Total PP Cost with Tech min	Diff. in MUs wrt approved	Diff. in cost wrt approved
FY 2025-26	1,72,700	85,182	1,93,162	94,436	20,461	9,255
FY 2026-27	1,80,111	88,626	2,11,552	1,01,945	31,441	13,319
FY 2027-	1,90,659	94,256	2,26,125	1,09,124	35,466	14,868

28						
FY 2028-29	1,95,766	1,00,505	2,32,149	1,16,113	36,383	15,608
FY 2029-30	2,03,301	1,06,708	2,43,161	1,23,482	39,860	16,774
<b>Total</b>	<b>9,42,537</b>	<b>4,75,277</b>	<b>11,06,149</b>	<b>5,45,101</b>	<b>1,63,612</b>	<b>69,824</b>

A copy of the excel sheet of this Hon'ble Commission's model with the correction of error with respect to technical minimum consideration is annexed hereto as **ANNEXURE P-7**.

- 31.18 It is, therefore, submitted that the aforementioned error in the model adopted by this Hon'ble Commission is apparent on the face of the record as it is manifestly contrary to technical constraints of thermal generation (as also recognised by this Hon'ble Commission at paragraph 5.9.26 of the MYT Order) as well as to provisions of the Grid Codes. As such, the said error deserves to be immediately reviewed and rectified by this Hon'ble Commission, especially considering the huge financial implication thereof on the power purchase estimates of the Review Petitioner.

**(ii) Non-consideration of significant changes in demand profile in Fifth Control Period vis-à-vis FY 2023-24**

- 31.19 It is stated that the Hon'ble Commission has taken the demand profile of FY 2023-24 as a base while running its simulations and re-doing the power purchase model. In this regard, it is submitted that the said approach is patently erroneous as it fails to take into account the substantial changes in the demand profile for the Fifth Control Period vis-à-vis the demand profile, as it existed, in FY 2023-24. Here it is pertinent to highlight that while this Hon'ble Commission has stated that formulation of the power purchase model requires due consideration of probabilistic scenarios, however, in complete contrast to the same, it has merely adopted the demand profile for FY 2023-24 without considering the significant as well as apparent changes in the demand profile due to shifting of agricultural demand, introduction of attractive ToD tariff, impact of new demand due to EV penetration, data

centres, green hydrogen facilities and steep industrial growth due to GoM's objective to reach 1 trillion USD economy.

31.20 Brief submissions in respect of the aforesaid issues are set out below:

- (i) **Shifting agricultural demand to daytime due to government initiatives, promoting day-time supply for agriculture:** This is a significant change as the load for agricultural consumers has been shifted to day-time as opposed to night-time supply earlier. This has resulted in an appreciable change in the overall demand profile of the Review Petitioner, requiring necessary adjustments in the model for the Fifth Control Period.
- (ii) **Growth in demand due to new and emerging technologies and factors, such as, Green Hydrogen (GH2), data centres, etc.:** It is stated that new and emerging technologies such as green hydrogen manufacturing facilities, data centres etc., are expected to contribute to the overall demand profile. Further, the state expects a rapid industrial growth the Fifth Control Period on account of the GoM's plan to achieve a 1 trillion USD economy for the state. These factors have not been considered in this Hon'ble Commission's Model, demonstrating a patently erroneous approach to determination of total power purchase cost.

31.21 It is submitted that ipso-facto adoption of demand profile of FY 2023-24 for projection and modelling of power procurement for the Fifth Control Period has resulted in unreliable and incorrect projection of power procurement cost. Such an approach is patently incorrect as it fails to take into account apparent and significant changes in demand patterns over the last two years and the reasonable projections for the Fifth Control Period. As such, the said error deserves to be immediately reviewed and rectified by this Hon'ble Commission, especially considering the huge financial implication thereof on the power purchase estimates of the Review Petitioner.

(iii) **Discrepancy between Solar CUF assumed in the MYT Order and applied in the model**

- 31.22 It is stated that as per Paragraph 5.9.41 of the MYT Order, this Hon'ble Commission has assumed a Capacity Utilization Factor (**CUF**) of 19% for estimating the available generation from distributed solar generation projects, in line with the provisions of the respective PPAs. However, in the actual MERC MYT model, the generation profile used for all intra-state solar capacity—including distributed generation projects such as those under MSKVY 2.0— has been assumed to be 24.69%, resulting in significantly higher availability of solar power.
- 31.23 The inconsistency and the error in the model become even more apparent from paragraphs 7.6.4.6 and 7.6.4.8 of the MYT Order, where this Hon'ble Commission while determining the power procurement cost for the agriculture distribution business has not only assumed a 19 percent CUF for distributed solar generation projects of MSKVY 2.0, but has also computed the quantum of power purchase based on the said CUF (as opposed to 24.69%). As such, at one place, this Hon'ble Commission has computed the quantum of solar generation from such projects at 19 percent CUF whereas at another part of the MYT Order, in the overall power procurement model, this Hon'ble Commission has computed the generation based on 24.69% percent CUF (despite stating there as well that the assumed CUF is 19%).
- 31.24 It is humbly submitted that this inconsistency is an error apparent on the face of the record that needs immediate rectification. The discrepancy in the CUF considered for distributed solar generation projects and the applied CUF for the overall intra-state solar fleet significantly affects the accuracy of available generation estimates. Such an inconsistency is patently flawed and leads to erroneous projections of power procurement costs.
- 31.25 Therefore, it is humbly submitted that the model's treatment of the CUF for distributed solar generation projects versus the actual intra-state solar capacity requires immediate review and rectification by this Hon'ble Commission, considering the significant financial implications on the power purchase estimates of the Review Petitioner.
- 31.26 In view of the aforementioned facts and averments, it is humbly submitted that the power procurement model adopted by this Hon'ble Commission suffers from several manifest and serious errors, which are apparent on the

face of the record and have a significant financial implication on the ARR of the Review Petitioner, exceeding Rs. 69,824 crore. The said errors deserve to be immediately rectified by this Hon'ble Commission and appropriate impact thereof must be passed on in the ARR of the Review Petitioner without any delay.

**Other patent errors in projection and determination of power purchase cost**

31.27 It is humbly submitted that in addition to the aforementioned errors in the determination of power purchase cost for the Fifth Control Period, there are certain other apparent errors in the projection of power purchase cost which have a significant financial impact, and hence ought to be immediately reviewed and rectified. The Review Petitioner's issue wise submissions on the said additional errors are hereunder:

***A. Inconsistency and apparent error in rate of variable charge/ECR of MSPGCL thermal stations assumed in the MYT Order***

31.28 It is humbly stated that there is a difference between the ECR considered by this Hon'ble Commission for calculation of approved monthly MOD stack in the MYT Order (Page No.808 to 824) and ECR approved by this Hon'ble Commission for MSPGCL's thermal power stations vide order dated 28.03.2025 passed in Case No. 187 of 2024 (Page No. 252) ("**MSPGCL MYT Order**"). The said difference/inconsistency is an error apparent on the face of the record as this Hon'ble Commission appears to have inadvertently failed to incorporate the ECR as approved in its order passed in Case No. 187 of 2024 in the power purchase cost determination for the Review Petitioner.

31.29 It is submitted that due to the aforementioned inconsistency in ECR, power purchase cost considered for MSEDCL in respect of MSPGCL thermal stations for the Fifth Control Period as a whole is under-accounted for by approximately Rs. 98.15 crore. The year wise difference in power purchase cost is as set out below for ease of reference:

YEAR	Variable Power Purchase cost for	Variable Power Purchase cost for	Difference in Power
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	<b>Genco thermal stations as per ECR in MSPGCL MYT Order Rs (Crs.)</b>	<b>Genco thermal stations as approved by the Commission in MSEDCL's MYT Order Rs. (Crs.)</b>	<b>Purchase cost Rs.( Crs.)</b>
	A	B	C=A-B
2025-26	17,976.99	17,975.49	1.50
2026-27	15,991.48	15,990.91	0.57
2027-28	15,828.79	15,813.37	15.42
2028-29	16,093.00	16,098.51	-(5.51)
2029-30	15,499.30	15,413.13	86.17
<b>TOTAL</b>	1,37,869.98	1,37,969.01	98.15

The detailed calculations are attached hereto as **ANNEXURE P-8**.

***B. Non-consideration of impact of Reagent Cost of FGD on ECR of MSPGCL projects in the MYT Order***

- 31.30 It is stated that this Hon'ble Commission in the MSPGCL MYT Order has provisionally approved the Reagent Cost payable (in Rs./kWh) over and above the approved ECR for various thermal plants of MSPGCL in the MSPGCL MYT Order (Page No. 253). However, this Hon'ble Commission has failed to consider the impact of the said additional Reagent Cost in the computation of power purchase expenses of the Review Petitioner in the MYT Order.
- 31.31 It is submitted that the said error is apparent on the face of the record as this Hon'ble Commission ought to have made a corresponding provision for impact of Reagent Cost over and above the ECR in the MYT Order of the Review Petitioner as well. Indeed, the Review Petitioner cannot be expected to make payments to MSPGCL towards additional impact of Reagent Cost of FGD units without having the corresponding right to recover the same from its ARR.

31.32 It is stated that the cumulative financial impact of the said error is approximately Rs. 3,056.71 crore for the Fifth Control Period. The station wise and year wise computation of the financial impact is set out below for ease of reference:

Station/Unit	2025-26	2026-27	2027-28	2028-29	2029-30	TOTAL
	(in Rs. crore)					
Bhusawal	0	0	0	0	0	0.00
Chandrapur	276.08	81.74	94.84	116.98	124.33	417.88
Khaperkheda	157.03	247.39	234.36	235.15	229.03	1222.01
Koradi	0	124.85	117.86	118.22	116.21	634.18
Nashik	0	0	0	0	0	0.00
Uran	0	0	0	0	0	0.00
Paras Units 3 & 4	32.13	29.65	28.34	28.45	27.68	114.11
Parli Units 6 & 7	0	49.97	54.58	64.73	52.56	253.96
Khaperkheda Unit 5	0	0	0	27.31	26.44	53.75
Bhusawal Units 4 & 5	0	0	0	25.53	40.21	65.74
Koradi Units 8, 9 & 10	0	0	0	34.76	33.67	68.44
Chandrapur Units 8 & 9	26.08	0	0	23.9	23.23	47.13
Parli Unit 8	0	33.58	41.11	41.68	37.06	179.51
Bhusawal - 6	0	0	0	0	0	0.00
<b>Total</b>	<b>491.32</b>	<b>567.18</b>	<b>571.09</b>	<b>716.71</b>	<b>710.41</b>	<b>3,056.71</b>

The detailed calculations are attached hereto as **ANNEXURE P-9**.

***C. Apparent error in computation of power purchase cost from Small Hydro projects of MSPGCL***

- 31.33 It is humbly submitted that this Hon'ble Commission in MSPGCL MYT Order has approved integrated AFC for all small hydro stations of MSPGCL under 'SHP' head, which also includes AFC for Ghatghar & Vaitarna hydro power projects considering Installed capacity mentioned in MSPGCL's MYT order under SHP . The AFC, as approved by this Hon'ble Commission for the said MSPGCL's Small Hydro projects is set out below (Amt in Rs. Cr):

Particulars	FY 2025-26	FY 2026-27	FY 2027-28	FY 2028-29	FY 2029-30	Total
Approved AFC for SHP, including Ghatghar, as per MSPGCL MYT Order	413.61	428.47	446.7	440.81	445.86	2175.45

- 31.34 However, in the Review Petitioner's MYT Order, this Hon'ble Commission has approved only Rs. 177 Crs/annum towards power purchase cost for all small hydro stations. In this regard, it is submitted that while the approved amount does not even cover the power procurement cost payable to MSPGCL's SHPs, it is humbly submitted that MSEDCL has contracted other small hydro power stations in addition to small hydro stations contracted with MSPGCL, whose costs also need to be factored in and allowed by this Hon'ble Commission.
- 31.35 It is submitted that last three years average power purchase cost for MSEDCL towards other SHP (excluding MSPGCL SHP) is about Rs. 172 Crs/annum, which also needs to be factored in as the Hon'ble Commission has not approved the power purchase cost towards other SHP (excluding MSPGCL SHP) in MSEDCL's MYT Order.
- 31.36 It is further reiterated that the approved power purchase cost to MSEDCL towards all SHP is even less than the charges allowed to MSPGCL for its SHP. Hence, power purchase cost towards other SHPs (excluding MSPGCL SHP) also needs to be considered while approving power purchase cost to MSEDCL towards small hydro stations.

31.37 Accordingly, the details of shortfall in approved power purchase cost for SHP are as follows.

Particulars (Amt. in Rs. Crs.)		FY 25-26	FY 26-27	FY 27-28	FY 28-29	FY 29-30	Total
Approved AFC for SHP including Ghatghar as per MSPGCL MYT order case no 187 of 2024	A	413.61	428.47	446.70	440.81	445.86	2175.45
Power purchase cost required for other SHPs (excluding MSPGCL SHP)	B	172.00	172.00	172.00	172.00	172.00	860.00
Approved PP cost for SHP in MSEDCL MYT order 217 of 2024	C	177.00	177.00	177.00	177.00	177.00	885.00
Approved PP cost for Ghtaghar in MSEDCL MYT order 217 of 2024	D	169.85	167.76	165.66	163.57	161.47	828.31
Shortfall in approved AFC to MSEDCL wrt AFC for MSPGCL SHP	E = (A+B)-(C+D)	238.76	255.71	276.04	272.24	279.39	1322.14

31.38 As such, it is clear that this Hon'ble Commission has made an apparent error by not approving the power purchase cost for procurement of power from SHPs in the power procurement, despite no express or implied disallowance of the procurement from these sources. This apparent error deserves to be rectified by this Hon'ble Commission as it is inadvertently preventing the Review Petitioner from claiming the actual cost of power purchase which may be due to MSPGCL and other SHP generation sources contracted to MSEDCL.

***D. Apparent error in computation of power purchase cost from GMR for FY 2026-27 due to wrong VC considered***

It is stated that this Hon'ble Commission has noted at para 5.9.34 of MYT order that for IPP's variable cost as submitted by MSEDCL is considered. The relevant extract is reproduced as under :

"5.9.34 For IPPs, **the Commission has considered the fixed charges and energy charges as same as considered by MSEDCL.** However, the Commission asked MSEDCL to submit the basis for fixed cost estimations of IPPs. In response MSEDCL submitted that fixed cost consists of scalable and non-scalable charges. Non-scalable charges are considered as per Schedule 8 (Quoted tariff) of PPA executed with the IPP generator.

*However, scalable charges are computed by calculating percentage CAGR over last 5 years from April 2019 to April 2024.*

**5.9.35 The Commission has considered the same energy charges for IPPs as submitted by MSEDCL for preparation of MOD stack for the 5 Control Period. The escalation in energy charges is considered same as proposed by MSEDCL with escalation rate ranging from 2% to 4% per annum for the 5th Control Period."**

- 31.39 It is humbly submitted that despite the aforementioned findings, this Hon'ble Commission has committed an apparent error as it has approved the variable cost for procurement from GMR's thermal project for FY 2026-27 at the same rate as FY 2025-26, without any escalation. In this regard, reference is invited to "Annexure VIII: Monthly MoD Stacks Approved for FY 2026-27" and "Annexure VII: Monthly MoD Stacks Approved for FY 2025-26" from the MYT Order, from which it is apparent that this Hon'ble Commission has considered variable cost of GMR Energy as Rs. 3.26 for both FY2025-26 and FY2026-27, whereas actual variable cost submitted by MSEDCL for FY2026-27 for GMR Energy is Rs. 3.32 /Kwh. Due to apparent error, there is a consequent disallowance of Rs.6.48 Crs which is tabulated as under:

Rates Considered by MERC	3.26
Rate Submitted by MSEDCL *	3.32
Difference in Rs./kWh	0.06
Energy for FY 2026-27	1122
Impact in Rs. Cr.	6.48

$$*3.32=3.20/(1-3.55\%)$$

The aforementioned error is an apparent error which out to be corrected in Annexure VIII of the MYT Order and the total power purchase cost needs to be appropriately revised to rectify this error.

**Re: Manifest errors in projections of sales for the Fifth Control Period**

32. It is submitted that the aforementioned financial impact is further amplified once the errors in projection of sales for the Fifth Control Period are also taken into

account. In this regard, it is submitted that the Hon'ble Commission has erred in noting that MSEDCL has used the Compound Annual Growth Rate ("**CAGR**") method whereas MSEDCL has prepared and relied upon the principles delineated under the Resource Adequacy (**RA**) Framework. In fact, it is stated and submitted that in manifest violation of its role as a regulator, the Hon'ble Commission has rather carried/run its own numbers based on CAGR method, in complete ignorance of the RA Framework, thereby assuming the roles and responsibilities of the distribution licensee, and exceeding its jurisdiction.

**A. Background: Philosophy of Resource Adequacy Assessment and RA Framework**

33. The Ministry of Power ("**MoP**") has notified Electricity (Amendment) Rules, 2022 ("**Electricity Amendment Rules**") in December 2022. Rule 16 (I) of the Electricity Amendment Rules stipulates that "*A guideline for assessment of resource adequacy during the generation planning stage (one year or beyond) as well as during the operational planning stage (up to one year) shall be issued by the Central Government in consultation with the Authority*". Accordingly, the Resource Adequacy Guidelines were notified in June 2023 by the MoP in consultation with the Central Electricity Authority ("**CEA**").
34. Following the guidelines formulated by CEA, this Hon'ble Commission has issued regulations - Maharashtra Electricity Regulatory Commission (Framework for Resource Adequacy) Regulations, 2024 ("**MERC Resource Adequacy Regulations, 2024**") to enable the implementation of Resource Adequacy framework by outlining a mechanism for planning of generation and transmission resources for reliably meeting the projected demand in compliance with specified reliability standards for serving the load with an optimum generation mix. The distribution licensee shall develop and prepare Long-Term Distribution Resource Adequacy Plan (**LT-DRAP**), Medium-Term Distribution Resource Adequacy Plan (**MT-DRAP**), and Short-Term Distribution Resource Adequacy Plan (**ST-DRAP**).
35. As per the RA framework, the resource adequacy planning has the stages as Demand assessment and forecasting, generation resource planning and power procurement planning. As per MERC Resource Adequacy Regulations, 2024, after the demand assessment and forecasting, following steps were carried out as part of generation resource planning: (a) capacity crediting of generation resources, (b) assessment of planning reserve margin, and (c) ascertaining resource adequacy requirement.

36. Demand assessment and forecasting is an important step for Resource Adequacy assessment. Long-term load forecasting is a critical aspect of energy planning, aiming to predict future electricity demand over extended periods, typically ranging from several months to years ahead. It plays a crucial role in capacity expansion planning of generation, transmission, and distribution systems. For forecasting the demand, a hybrid model approach is used to forecast the overall demand based on a combination of SARIMA and econometric methodologies. The detailed Resource Adequacy Report of MSEDCL is annexed herewith as **ANNEXURE-9**.

***B. Basis the RA Framework MSEDCL submitted its Sales Forecasts/Projections***

37. It is stated that MSEDCL's sales forecast for the Control Period were based on the methodologies stipulated in the RA regulation 2024 and sales forecast submitted in the RA plan to the Hon'ble Commission on 15.10.2024. The said RA plans outline a framework to ensure reliable power supply for consumers for the Fifth Control Period (FY 2025-26 to FY 2029-30). The RA Plan submitted to the Hon'ble Commission provides a comprehensive analysis of MSEDCL's demand forecast, generation resources, capacity credits, and strategies to meet Revenue Accounting Regulation ("**RAR**") over the short-term and medium-term horizons.
38. The sale forecast for the Fifth Control Period was based on the RA Framework, as submitted by MSEDCL in its MYT Petition. *MSEDCL in its petition has stated that the sales projections are in line with the RA Plan.* The sales figures mentioned in the 'RA Sales' sheet of the model submitted by MSEDCL with the MYT petition includes Distribution Franchisee ("**DF**") and Open Access ("**OA**") Sales. The Petition also provided for total OA sales, and sales due to the impact of Electronic Vehicle ("**EV**"), rooftop and solar pump set. The stepwise approach adopted by MSEDCL is re-iterated hereinbelow:
- (a) **Step 1:** The year wise total OA sales for control period (FY 2026 to FY 2030) was bifurcated into different consumer categories based on the actual sales data for FY 2024. This category wise OA consumption was then deducted from the respective consumer category RA sales mentioned to arrive at consumer sales including DF. (*Please see Table 1 below*)
  - (b) **Step 2:** Since the RA Plan did have the consumer category wise consumption, the consequential impact in respect of category such as

EV's, Rooftop and Solar pump set was calculated. The consequential impact was considered by MSEDCL as below:

- i. EV sales were added in the HT ("**High Tension**") and LT ("**Low Tension**") EV category
  - ii. Impact of Rooftop sales were corrected from HT & LT Industrial, HT & LT Commercial, HT Group Housing & Residential.
  - iii. Impact of Solar pump set was deducted from Agriculture.
- (c) **Step 3:** The consumer category wise DF sales were deducted to arrive at Sale excluding DF. (*Please see Table 2 below*)
- (d) **Step 4:** The sales figures for HT categories were converted to kVAh from kWh by dividing with 0.99 (HT Agriculture category sales were converted to kVAh from kWh by dividing with 0.92).

39. That the subsequent corrections in sales were based on the changing economics of the market.

- (a) **Economic Growth:** The GOM's vision of transforming the state into a trillion-dollar economy is expected to create a significant increase in industrial & commercial activities, thereby increasing energy consumption.
- (b) **Emerging Industries:** Strategic initiatives in sectors such as semiconductor manufacturing, green hydrogen and data centres, which are power-intensive in nature are rapidly progressing, further contributing to increased energy demand.
- (c) **Electric Vehicle Infrastructure:** The accelerating adoption of EVs and the parallel development of battery charging infrastructure will substantially drive-up energy requirements in commercial and industrial segments.
- (d) **Reduction in Tariff:** Proposed reductions in tariffs are likely to encourage higher electricity consumption among residential as well as industrial (MSMEs) users. The proposed ToD rebate during solar hours is expected to promote load shifting and increased daytime usage, aligning consumption with renewable energy availability.

[**Table 1:** The table below shows the Sales Projection in RA Plan and as projected in the MYT Petition]

<b>FY</b>	<b>RA sales excluding OA (kWh)</b>	<b>RA Sales excluding OA and including impact of EV, Rooftop and Solar Pump (kWh)</b>	<b>(Form 1 of Petition) RA Sales excluding OA and including impact of EV, Rooftop and Solar Pump and excluding DF (kWh)</b>
<b>FY 26</b>	1,50,193	1,49,442	1,44,272
<b>FY 27</b>	1,58,625	1,57,149	1,51,870
<b>FY 28</b>	1,66,800	1,64,549	1,59,156
<b>FY 29</b>	1,75,103	1,72,095	1,66,584
<b>FY 30</b>	1,83,862	1,80,481	1,74,847
		<b>8,23,717</b>	<b>7,96,729</b>

[ **Table 2:** The DF sales projections as per petition were as below]

<b>FY</b>	<b>Bhiwandi</b>	<b>Thane</b>	<b>Malegaon</b>	<b>Total</b>
<b>FY 26</b>	3,639	637	894	5,170
<b>FY 27</b>	3,691	661	927	5,279
<b>FY 28</b>	3,745	687	961	5,393
<b>FY 29</b>	3,801	714	997	5,512
<b>FY 30</b>	3,860	742	1034	5,635
	<b>18,737</b>	<b>3,440</b>	<b>4,813</b>	<b>26,990</b>

**C. Erroneous considerations for disallowance of Sale Forecast by the Hon'ble Commission**

40. The Hon'ble Commission has disallowed sales forecast for each category as under:

Consumer Categories	MYT Petition	Approved	Disallowance
HT Industry	243,874	236,293	7,580
HT Commercial	11,117	11,971	(854)
HT Railways	728	786	(58)
HT PWW	12,630	12,442	188
HT Agriculture	11,002	10,767	235
HT Group Housing	1,296	1,275	21
HT Public Services	6,466	6,992	(526)
HT EV	13,707	679	13,028
Domestic	162,867	155,629	7,238
LT Commercial	45,410	42,093	3,317
LT PWW	5,377	5,725	(348)
LT Agriculture	194,332	175,101	19,231
LT Industry	99,131	95,436	3,695
LT Public Services	4,499	6,299	(1,800)
LT Streetlight	6,054	5,857	197
LT EV	3,350	63	3,287
Others	1,863	2,199	(336)
<b>Total Sales</b>	<b>823,702</b>	<b>769,609</b>	<b>54,094</b>

41. It is submitted that the said disallowance is based on an erroneous noting/understanding of the Hon'ble Commission, i.e. that MSEDCL has prepared the sales forecast based on the CAGR, when MSEDCL has prepared the same basis the RA Framework. The Hon'ble Commission has in complete disregard of the MSEDCL's submissions that follow the RA Framework, has erroneously noted

that the forecasts were done basis CAGR. At the outset, the submission of MSEDCL was correctly noted by the Hon'ble Commission in its order, as under:

*"5.1.4 MSEDCL has referred Regulation 6.1. of the MERC RA Regulations, 2024 which entails the scope of demand forecasting for MSEDCL. Following Regulation 6.4 of the MERC RA Regulations, 2024, the demand forecasting has been conducted by utilizing the category wise consumption data for various categories. **The category-wise demand has been projected based on a combination of SARIMA and econometric methodologies.**"*

42. However, in complete disregard of the said noting made its own order, MSEDCL has erroneously proceeded to disallow sales forecast by noting that MSEDCL has used CAGR. In this regard, attention is drawn to the following paragraphs:

*"5.3.1.7 The Commission observes that for sales projections under MYT petition the MSEDCL has extensively relied on consumer-category-wise energy forecasts (MWh) using CAGR based approach for LT/MT forecasts.*

...

*"5.3.1.10The **Commission has noticed errors in CAGR based approach adopted by the MSEDCL in historical trend analysis....**"*

43. Hence, it is stated at the very outset that any disallowance basis an incorrect understanding must therefore be corrected to correctly appreciate the submissions of MSEDCL which were based on the RA Framework.
44. Additionally, the Hon'ble Commission has proceeded to then apply the CAGR to re-calculate and provided sales forecasting, which is beyond the role of the Hon'ble Commission but also in complete contradiction of the regulation governing the RA Framework.
45. In this regard, attention is drawn to paragraphs 5.1.27 to 5.1.54 of the Tariff Order, where for each category the Hon'ble Commission has applied the CAGR method and provided for its own understanding. The sale forecasting approach adopted by the Hon'ble Commission is summarized hereunder:

Category	Sales forecasting approach adopted by MERC for Fifth Control Period
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Category	Sales forecasting approach adopted by MERC for Fifth Control Period
LT-Residential	<p>The 5-yr weighted average CAGR for LT-BPL category works out to be negative. Hence, the Hon'ble Commission has considered growth rate of 1% for LT 1(A)-BPL category. The Hon'ble Commission has considered 3 – year CAGR the weighted average of which works out to 5.10%. Further the Hon'ble Commission has additionally considered impact of solar rooftop installations to project the LT Residential sales.</p>
LT Commercial	<p>The 5-yr CAGR 3-yr CAGR and Y-o-Y growth rates for LT II-Non-Residential category works out to be 2.68% 20% and 10% respectively. There is significant variation ranging from 3% to 20% which does not signify the realistic projection of the sales growth. The Hon'ble Commission has considered the 7-yr weighted average CAGR i.e. 5.8% for all LT II- Non-Residential sub-categories. Further the Hon'ble Commission has additionally considered impact of solar rooftop installation on LT Non-Residential sale.</p>
LT-Agriculture	<p>The Hon'ble Commission has considered under True-up chapter its views for the assessment of AG sales. The Hon'ble Commission has considered to approve AG sales for Fifth Control Period i.e. for FY 2025-26 to FY 2029-30 as per the AG consumption norms approved for FY 2023-24 in the True-up chapters of this Order.</p>
LT-Industry	<p>The 5 years weighted average CAGR for LT Industry-Power loom and total LT V-Industry works out to be 3.7% and 8.1% respectively. The 3-year weighted average CAGR for LT Industry-Power loom works out to be 12%. There is significant variation between 3 year and 5-year CAGR for LT Industry-Power loom. Thus, the Hon'ble Commission has considered the 5 years CAGR growth rate of 8.1% (total LT V-Industry) for LT-Power loom industry.</p> <p>As regards the LT Industry -General 5 years weighted average CAGR works out to be 10.81% the Hon'ble Commission has considered the same growth rate for LT Industry-General. Further the Hon'ble Commission has additionally considered impact of solar rooftop installation on LT Industrial sale.</p>

Category	Sales forecasting approach adopted by MERC for Fifth Control Period
HT Industry	6 years weighted average CAGR works out to be 5.17%. as compared to MSEDCL's assumption of 6.14% growth in HT-Industry in RA plan as compared to 5-yr CAGR growth rate which works out as 4.19%. Thus Commission has considered the 6 years CAGR growth rate of 5.17 % for HT I-Industry. Further the Hon'ble Commission has additionally considered impact of solar rooftop installation on HT Industry sales.
HT Commercial	The 5 years weighted average CAGR for HT Commercial category works out to be 0.36%. Hence, the Hon'ble Commission has considered the year-on-year growth rate of 6.7% for HT Commercial Category. Further, the Hon'ble Commission has additionally considered impact of solar rooftop installation on HT Commercial sales.

46. It is stated that not only the Hon'ble Commission has grossly erred in noting the methodology submitted by MSEDCL which was in complete compliance of the RA Framework, it has also proceeded to taken on the role of the distribution licensee by running the CAGR method on its own to arrive at sales forecasts. Additionally, there is lot of inconsistency in considering CAGR for different categories such as using y-o-y approach for few categories, considers 3 yr / 5 yr CAGR for few categories, weighted Avg. CAGR for few categories, Avg. CAGR of two subcategories which reflects that there is no consistency in the approach adopted by the Commission. MSEDCL's sales projections were reflective of proposed tariff, whereas Commission has grossly ignored its tariff structure like new ToD regime, re-categorization of certain consumer category.
47. It is respectfully submitted that the Hon'ble Commission, as a statutory body constituted under the Electricity Act is empowered to determine tariffs in accordance with Section 62 and to specify terms and procedures under Section 61 and Section 86 (1)(a) of the Act. However, the Hon'ble Commission does not possess the authority to re-write unilaterally a new sales forecast, let alone erroneously noting that the sales forecast submitted by the distribution licensee are also on the CAGR method. The fact that the Hon'ble Commission does not have the power and wherewithal to carry out the tasks assigned to the distribution licensee, i.e. preparation of sales forecasts/RA framework is further demonstrated by the fact that there is no uniformity or valid justification given by

the Hon'ble Commission for adopting CAGR which also does not reflect the changing economic landscape the power sector needs in the State of Maharashtra (like trillion dollar economy, growing demand for EV, green hydrogen, emerging new sectors such as data centres, semi-conductors etc.).

48. The Hon'ble Commission's jurisdiction is circumscribed by the Act, and its powers must be exercised strictly within the framework provided therein. In this regard, it is settled law that regulatory commissions cannot usurp legislative functions or create substantive rights and obligations that are not traceable to the parent statute.
49. In the context of tariff determination, Hon'ble Commission is required to be guided by principles laid out under Section 61, and to follow the Tariff Regulations notified under Section 181. It cannot override or amend the statutory process by creating a novel or substitute RA Framework unless the same is explicitly contemplated by statute or a valid rule-making delegation. Hence, any attempt by Hon'ble Commission to re-write the RA Framework or introduce substantive deviations in the tariff approval process — under the guise of regulatory discretion — would therefore be ultra vires the Electricity Act and contrary to settled principles of administrative and constitutional law.

**D. The MERC Resource Adequacy Regulations, 2024: Scope and Role of the Hon'ble Commission and Obligations/Entitlements of Distribution Company**

50. The MoP notified amendment of Electricity Rules on 29.12.2022. Rule 16 of these Rules provide that the SERC shall frame Regulations on Resource Adequacy, in accordance with the guidelines issued by the Central Government and the model Regulations framed by the Forum of Regulators.
51. Accordingly, the Hon'ble Commission has issued MERC Resource Adequacy Regulations, 2024 which have been notified official gazette on 20 June 2024. The Notification in the preamble notes as under:

*"2. ...Regulation 21 of these Regulations specify the timelines as well as the roles and responsibilities of various stakeholders such as distribution licensees (DLs), State Transmission Utility (STU) and Maharashtra State Load Despatch Centre (MSLDC) to undertake various activities including submission of Long term/Medium term*

*Resource Adequacy Plans (MT-DRAP), Short term Resource Adequacy Plan (ST-DRAP) and Annual Rolling Plans, in line with the provisions outlined under said Regulations.*

3. *These RA Regulations have come into effect from date of its notification in official gazette i.e. with effect from 20 June 2024. As per these Regulations, the LT/MT-DRAP and ST-DRAP plans for the first control period coinciding with fifth control period FY 2025-26 to FY 2029-30 are to be submitted during Current Year (i.e., First Year of FY 2024-25) for Ensuing Years (FY 2025-26 to FY 2029-30) and subsequently, Annual Rolling Plans are to be submitted in each year for the Ensuing Years for any revisions/modifications due to market developments or otherwise.*
4. *Considering the time required for preparedness of various steps outlined under these RA Regulations, as also, in view of the fact that Central Electricity Authority (CEA) has not yet notified/approved National level RA plan with specification of reliability indices for Planning Reserve Margin (PRM), Loss of Load Probability (LOLP), Normalised Energy Not Served (NENS) for National/State level, it is envisaged that there could be some delays in development of RA Plans by the Utilities/stakeholders at state level. Recognizing this fact, the Commission has incorporated enabling provision that timelines for first year for submission of RA Plans under these Regulations (i.e. submission during FY 2024-25) shall be separately notified. The Relevant extract of Regulation 1.3 of the RA Regulations is as under:*
  - 1.3. *These Regulations shall come into force from the date of their notification in the Official Gazette*
  - Provided that the timelines specified in Regulation 21 of these Regulations shall be applicable from FY 2025-26.*
  - Provided further that, for FY 2024-25 i.e., 1 April 2024 to 31 March 2025, timelines shall be separately notified by the Commission.*
5. *In view of above, the Commission hereby notifies the following timelines for submission of MTDRAP/ST-DRAP along with associated activities for implementation of the Resource Adequacy Framework in the State of Maharashtra as under:*

Description of Activities	Submission of RA Plans during Current Year (FY25) for RA Plan (MT-DRAP and ST-DRAP) applicable for Ensuing Years FY 26 to FY 30	Timelines for submission of Annual Rolling Plans in subsequent Year (FY26) (CY) applicable for Ensuing Years (EY) (FY27) Onwards
DLs to submit the category wise consumption data of pervious to STU/MSLDC	14 August 2024	21 April
DLs to submit ST and MT demand forecasts to MSLDC		30 April
MSLDC to submit State-level forecasts to CEA/ RLDC/NLDC	As per CEA/NLDC	31 May
DLs to submit ST-DRAP and MT-DRAP to the Commission	30 September 2024	31 August
STU/MSLDC to communicate aggregated State-shortfall to the Commission	15 October 2024	15 September
The Commission to approve ST-DRAP and MT-DRAP	31 October 2024	30 September
DLs to contract capacities for shortfall/surplus management	31 December 2024	30 November
DLs to submit updated Annual Rolling Plan to STU/MSLDC	31 January 2025	31 December
STU/MSLDC to submit Aggregate State level Annual Rolling Plan to NLDC	As per NLDC	31 January

”

52. That Chapter 7 of the MERC Resource Adequacy Regulations, 2024 provides for “Roles and Responsibilities and Timelines”. Chapter 7 has four regulations, from Regulation 21 to Regulation 23:

- (a) Regulation 20: Data Requirement and Sharing Protocol
- (b) Regulation 21: Timelines
- (c) Regulation 22: Publication of the information on website
- (d) Regulation 23: Constitution of dedicated cells by Distribution Licensee

53. Regulation 21 of the MERC Resource Adequacy Regulations, 2024 provides for timelines as under:

*“21. Timelines*

- 21.1. Distribution licensees shall submit demand forecasts to MSLDC by 30th April of each year for the ensuing year(s).*
- 21.2. MSLDC shall aggregate and submit state-level forecasts to the Authority and the NLDC by 31st May of each year for the ensuing year(s).*

- 21.3. *Distribution licensees shall perform MT-DRAP and ST-DRAP exercise by 31st August of each year for the ensuing year(s)*
- 21.4. *STU and MSLDC shall communicate the state-aggregated capacity shortfall to the Commission by 15th September of each year.*
- 21.5. *MSETCL and MSLDC shall communicate state-aggregated capacity shortfall to the Commission by 15th of September of each year for the ensuing year(s). The Commission shall approve RA plans by 30th September of each year.*
- 21.6. *MSETCL and MSLDC shall submit state-level aggregated plan to RLDC/ NLDC by 31st January of each year."*

54. In furtherance of the same, it is important to note the provisions of the MERC Resource Adequacy Regulations, 2024 which demarcates the role of the distribution licensee, the other stakeholders, which are commensurate to the timelines provided above. Specifically, in respect of the role of the Hon'ble Commission, the following are relevant:

- (a) In respect of Procurement Type and Tenure, the distribution licensee determines the modalities and tenure of procurement of resource mix and also prepares the power procurement plan in the manner stipulated at Regulation 15.1 read with 15.2. The said power procurement plan is forwarded to the STU to ensure consistency of such plan with the transmission system plan. The other provisions of Regulation 15, envisage a role of the Hon'ble Commission which is much prior to the submission of the RA Framework and reliance on the same during the MYT Petition. In this regard, the following is noteworthy:

*"15.5. The distribution licensees shall identify the generation resource mix and also procurement strategy in long-term, medium-term, and short-term horizon and seek approval of the Commission as a part of its power procurement approval.*

*15.6. The distribution licensee shall demonstrate to the Commission 100% tie-up for the first year and a minimum 90% tie-up for the second year to meet the requirement of their contribution towards meeting state peak. Only resources with long / medium / short-term contracts shall be considered to contribute to the RAR.*

- 15.7. For subsequent three years, the distribution licensee shall also furnish a plan to meet estimated requirement of their contribution to meet state peak for the Commission's approval.*
- 15.8. The MT-DRAP shall be carried out by the distribution licensee on an annual rolling basis considering the contracted capacity as a part of the system and shall optimize for additional capacity required.*
- 15.9. The distribution licensee through MT-DRAP, shall demonstrate to the Commission their plan to meet their RAR with a mix of Long-term, Medium-term, and Short-term contracts. Provided that the distribution licensee shall keep the share of contracts in the range as mentioned under Regulation 12.10 of these Regulations.*
- 15.10. Assessment through Annual Rolling Plan shall ascertain incremental capacity addition requirement through MT/ST upon factoring in existing and planned procurement initiatives of the distribution licensee.*
- 15.11. The distribution licensee shall contract capacities by 30th November of each year and submit the Annual Rolling Plan to STU/MSLDC by 31st December of each year for ensuring year(s).*
- 15.12. STU and MSLDC shall submit state-level aggregated plan to RLDC/NLDC by 31st January of each year for the ensuing year(s)"*

- (b) Hence, it is not during the MYT Petition, but much before the same that the Hon'ble Commission approves the MT-DRAP and ST-DRAP of the distribution licensees, i.e., by 30th September of each year for the ensuing year(s) inclusion annual rolling plans, upon taking into consideration various scenarios as well as allocation of Resource Adequacy requirement allocated to the State/distribution licensee based on its contribution to the National/state peak respectively as determined by Authority/ National Load Dispatch Centre ("**NLDC**")/ Regional Load Dispatch Centre ("**RLDC**") and State Transmission Utility ("**STU**")/ State Load Dispatch Centre ("**SLDC**"), as the case may be.
- (c) Hence, as also provided in Regulation 16.3, the distribution licensee shall seek approval of the Hon'ble Commission for the power procurement as well as Annual Rolling Plan i.e. MT-DRAP and ST-DRAP. For approval of such plans, the Hon'ble Commission shall seek inputs from STU/SLDC to ensure consistency with the state-level aggregation carried out by STU/SLDC.

- (d) Regulation 17 provides for approval of the power purchase agreement ("**PPA**") from the Hon'ble Commission qua any new capacity all long/medium/short term power procurements, any new PPAs. Regulation 17 reads as under:

- "17.1. Any new Capacity arrangement/tie-up shall be subject to the prior approval of the Commission in view of necessity, reasonableness of cost of power purchase and promotion of working in an efficient, economical, and equitable manner.*
- 17.2. All procurement of Long/Medium/Short-term power from various sources shall be carried out as per the Guidelines/Rules/Regulations/Policies issued by the Central Government/Appropriate Commission from time to time.*
- 17.3. Any new power purchase agreement for Long/Medium-term or amendments to existing Long/Medium-term Power Purchase Agreement (PPA's)/ Power Sale Agreement (PSA) entered into by the distribution licensee shall be subject to the prior approval of the Commission.*
- 17.4. The distribution licensee shall submit the list of all existing Power Purchase Agreements executed with different conventional power plants as well as RE Generators along with the Resource Adequacy plan."*

55. Hence, apart from the above stated role of the Hon'ble Commission qua "approvals" which are before the MYT Petition, the Hon'ble Commission does not have the power or the authority to ignore the RA Framework and follow CAGR, runs its own model on CAGR and upload its findings of CAGR in complete contravention of the MERC Resource Adequacy Regulations, 2024.

**E. RA Framework and Role of CEA**

56. The MERC Resource Adequacy Regulations, 2024 refers to the "CEA RA Guidelines" to mean Guidelines for Resource Adequacy planning framework for India notified by CEA in pursuance of Rule 16 of Electricity (Amendment) Rules, 2022 and amendments thereof. It is in relation to the Long-Term National Resource Adequacy Plan" or "LT-NRAP" and "Short-Term National Resource Adequacy Plan" or "ST-NRAP" which the CEA publishes. In terms of Regulation 5.5 the distribution licensees, STU and SLDC shall provide requisite information and data including demand forecasts for a period up to 10 years to various Agencies to enable CEA and Grid India/NLDC to undertake LT-NRAP and ST-

NRAP studies, respectively, as per CEA RA Guidelines. LT-NRAP and ST-NRAP reports shall act as guidance for the distribution licensee(s) for undertaking the Resource Adequacy exercises (Regulation 12.5). Further:

- (a) The CEA will publish the Long-term National Resource Adequacy Plan (LT-NRAP) to determine the optimal Planning Reserve Margin (PRM) requirement at the national level for ensuring reliable supply targets. The report will also include the optimal generation mix for the next 10 years thereby ensuring compliance with Resource Adequacy Requirements while meeting national demand at least cost basis. Further, the report will feature capacity credits for different resource types on a national basis and prescribe the State contribution towards the national peak demand. **(Regulation 12.6)**
- (b) NLDC will publish a one-year look-ahead Short-term National Resource Adequacy Plan (ST-NRAP) report which will include parameters such as demand forecasts, resource availability based on under-construction status of new projects, planned maintenance schedules of existing stations, station-wise historic forced outage rates and decommissioning plans. **(Regulation 12.7)**
- (c) Based on the allocated share in national peak provided in LT-NRAP for the State, STU/MSLDC shall allocate each distribution licensee's share in the state peak within 15 days of the publication of LT-NRAP based on average of the percentage share in the state coincident peak demand (CPD) and percentage share in the state noncoincident peak demand (NCPD). **(Regulation 12.8)**

57. In furtherance of the same, following observations of the Hon'ble Commission are relevant:

*"5.2.3 The Commission has notified the MERC (Framework for Resource Adequacy) Regulations, 2024 (MERC RA Regulations, 2024), to enable the implementation of the RA Framework to reliably meet the projected demand within the state. The objective of the MERC RA Regulations, 2024 is to enable the implementation of RA framework by outlining a mechanism for planning of generation and transmission resources for reliably meeting the projected demand in compliance with specified reliability standards for serving the load with an optimum generation mix.*

*5.2.4 The MERC RA Regulations, 2024 outline the development and preparation of an RA Plan for the Long-term Distribution Resource Adequacy Plan (LT- DRAP) for up to 10 years, Medium-term Distribution Resource Adequacy Plan (MT-*

DRAP) for up to 5 years and Short-Term Resource Adequacy Plan (ST- DRAP) for up to one year by DLs. The RA Regulations specify the requirement for long-term, medium-term and short-term demand forecasting and assessment using scientific modelling tools, generation resource planning, procurement planning, and monitoring and compliance. **In compliance with the provisions of Regulation 5.4 of the MERC RA Regulations, 2024, MSEDCL has submitted its RA Plan on 15 October 2024.** The Commission scrutinized the proposal submitted by MSEDCL and noted certain data discrepancies in demand forecasting and shortcomings in compliance with the provisions of the MERC RA Regulations 2024.

- 5.2.6 Further, the Commission noted that, as per the RA guidelines, the CEA is mandated to publish a LT-NRAP, which shall determine the optimal PRM requirement at the all-India level conforming to the reliable supply targets. LT- NRAP shall allocate the share in the national peak for each State, and in States where there are multiple DLs, the respective STU / SLDC shall allocate each DL's share in the national peak within 15 days of the publication of LT-NRAP.
- 5.2.7 Further, these RA guidelines also require National Load Despatch Centre (NLDC) to annually publish a one-year look-ahead Short-term National Resource Adequacy Plan (ST-NRAP). The Commission had also noted that, the CEA/NLDC are yet to publish the LT-NRAP and ST-NRAP results, including reliability indices (Loss of Load Probability (LOLP)/ Normalized Energy not Served (NENS)) and PRM, CC factors for various resources, as per RA Guidelines. **As the CEA is yet to publish the LT-NRAP study report, the allocation factors for the contribution of States to National Coincident Peak Demand (NCPD) are not readily available for assessment. Meanwhile, the CEA had published a Discussion Paper dated 18 October 2024 for a methodology for demand contribution and CC factor assessment and invited comments.**
- 5.2.8 **In view of above developments at the national level on RA planning, critical observations on RA plans submitted by MSEDCL and considering the forthcoming MYT proceedings as per MYT Regulations 2024, the Commission directed MSEDCL to revisit the RA planning in light of the methodology specified by the CEA in the Discussion Paper published by CEA dated 18 October 2024 for computation of CC of Generation Resources & Coincident Peak Requirement of Utilities under RA Framework.** Further, MSEDCL was

also directed to revisit its ST-DRAP and LT-DRAP planning along with proposed power procurement and **submit the same as a part of its MYT Tariff Petition for the 5th control period for stakeholder's consultation.**

- 5.2.9 Meanwhile, **Grid India (NLDC) has recently published the ST-NRAP study report for FY 2025-26 on 31st January 2025 which outlines the comprehensive assessment of RA for all India for FY 2025-26 based on probabilistic demand forecasts and generation resource availability scenarios.** The results are presented in the form of reliability indices including LOLP and NENS. According to ST-NRAP study report, in the best-case scenario for FY 2025- 26, the LOLP is 5.8 %, and the NENS is 0.17% based on production cost model. Additionally, the report also covers suggested measures to improve RA practices to be followed.
- 5.2.10 However, the ST-NRAP report does not cover state specific analysis or contribution of any state to national co-incident peak to ascertain RA requirement for the State. Further, it does not provide guiding factors of PRM and CC assessment of resources across regions. All these factors are important for state level RA assessment and are expected to be covered as a part of LT- NRAP study report to be published by CEA as per the RA Guidelines. As per the Regulation 12.13 of MERC RA Regulations, 2024, for planning RA requirement, the DL is required to duly factor in the allocation of RA requirement to the DL as may be suggested by the STU/SLDC, as the case may be, based on average of share in state CPD and share in state non-coincident peak demand (NCPD) for MT-RA and ST-RA.
- 5.2.12 **Further, as per Regulation 16.3 of MERC RA Regulations, 2024, while approving the RA plans of DLs the Commission is required to seek inputs from STU/SLDC to ensure consistency with the state-level aggregation carried out by STU/SLDC.**
- 5.2.13 **In view of the above directions of the Commission, MSEDCL submitted its revised RA planning as a part of its MYT Tariff Petition for the 5<sup>th</sup> control period in this Petition."**

58. It is in furtherance of the above noting of the Hon'ble Commission, it is stated that no such revised RA plan was submitted by MSEDCL as a part of the MYT Tariff Petition for the Fifth control period. The said noting of the Hon'ble Commission is erroneous. The RA plan submitted along with the MYT Petition was the same RA plan submitted and considered by the Hon'ble Commission and dated 15.10.2024.

59. It is pertinent to note that during the submission of the RA Plan in October 2024, the RA for MSEDCL prepared by CEA was also provided.

The report of the CEA is attached herewith as **ANNEXURE P-10**.

60. It is submitted that the RA Plan of MSEDCL and that prepared by CEA were almost identical qua demand and proposed generation capacity except for proposed wind capacity, which was specifically also communicated to the CEA by MSEDCL. The CEA responded to the said exception by stating the wind capacity can be replaced with solar and storage capacity in the next Rolling Plan.

***F. This Hon'ble Commission does not have the power and authority to deviate from the RA Framework to adopt CAGR Method***

61. It is also equally settled that the Hon'ble Commission cannot assume to itself any powers which are not otherwise conferred on it under the statute. Thus, where the MERC Resource Adequacy Regulations, 2024 clearly stipulates the manner in which the RA framework is to be implemented, and explicitly demarcates the specific functions/powers of the Hon'ble Commission and the distribution licensee, it is imperative for the Hon'ble Commission to comply with the provisions of the regulations and discharge its functions within statutory limits. The Hon'ble Commission cannot assume additional powers not conferred on it under the regulations or interfere in the functions of the distribution licensee.
62. That the Hon'ble Commission has a limited regulatory role which is consistent with the statutory scheme under the Electricity Act which entrusts the Hon'ble Commission with regulatory supervision under The Hon'ble Supreme Court in ***Tata Power Co. Ltd. v. MERC, (2008) 10 SCC 638***, the Hon'ble Supreme Court clarified that the role of the Hon'ble Commission is not to micromanage the functioning of utilities, but to regulate their activities in accordance with law and policy laid down.
63. Further, the Hon'ble APTEL has consistently emphasized that SERCs must adhere strictly to their statutory mandates. Specifically, when dealing with pre-approved plans such as the LT-DRAP and ST-DRAP, the role of the Hon'ble Commission is confined to oversight and review, without encroaching upon the operational responsibilities of distribution licensees.

64. In this regard, it may be noted that the Hon'ble Supreme Court in the case of *Energy Watchdog v. CERC* decided on 11.4.2017 in Civil Appeal Nos. 5399-5400 of 2016, provided that tariff determination that occurs under Section 62 of the Electricity Act requires the State Commission to regulate tariffs within the confines of the Act, without overstepping into functions not expressly assigned to it. Furthermore, in Appeal No. 369 of 2023, the Hon'ble APTEL highlighted that the Hon'ble Commission must follow the procedures prescribed under the Electricity Act and consider all relevant inputs, including those from stakeholders like the STU and SLDC. This underscores the importance of procedural compliance and stakeholder consultation in the tariff determination process. Hence, it is reiterated that while the Hon'ble Commission has the authority to scrutinize and approve tariffs however any decision must be based on plans and figures submitted by the licensee in furtherance of the Regulations. The Hon'ble Commission should not impose its own operational plans or assumptions that override the licensee's submissions unless there is a clear statutory basis for such actions.
65. Hence, applying these principles, any attempt by Hon'ble Commission to enlarge its role beyond mere approval and oversight, such as issuing directions that effectively substitute or rewrite the distribution licensee's planning functions, would be ultra vires both the Electricity Act and the MERC Resource Adequacy Regulations, 2024 themselves. The Hon'ble Commission's authority to issue orders or directions must therefore be exercised strictly within the four corners of the regulation, and not in a manner that usurps or overrides the primary responsibility of distribution licensees to plan and manage their procurement strategies in alignment with demand forecasting.
66. Hence, it is not the role of Hon'ble Commission to run its CAGR based model, and assume the role that has been specifically casted for the distribution licensee, as it is the distribution licensee alone who has to ensure power supply and who should estimate the requirement of power.

**G. Limitation of CAGR Methodology led to the introduction of the RA Framework**

67. Regulatory bodies and various commissions have recognized the limitations of the CAGR approach and have advocated for more sophisticated forecasting methodologies. Several SERCs, including the Hon'ble Commission have issued regulations and orders highlighting the importance of accurate demand

forecasting. These documents often encourage utilities to adopt advanced forecasting techniques that incorporate real-time data, weather patterns, and consumer behaviour analytics. The Hon'ble Commission has acknowledged the limitations of traditional demand forecasting methods, such as the CAGR, and has advocated for more advanced, data-driven approaches. While there may not be explicit judicial pronouncements declaring the CAGR method as unscientific, regulatory documents and orders provide insights into the Hon'ble Commission's stance on adopting sophisticated forecasting techniques. The Hon'ble Commission's emphasis on advanced forecasting techniques is evident from the Statement of Reasons for the State Grid Code, where the Hon'ble Commission discusses the importance of real-time demand forecasting emphasizes that the SLDC should develop online estimation and forecasting of demand to manage the system effectively. This approach moves beyond static methods like CAGR, advocating for dynamic, real-time forecasting mechanisms.

68. Hence, it is stated and submitted as under:

- (a) It is submitted that the Hon'ble Commission has erred in noting that MSEDCL has used the CAGR whereas MSEDCL has prepared and relied upon the RA Framework for preparation of Sales Forecasts. The category-wise demand has been projected based on a combination of SARIMA and econometric methodologies.
- (b) The Hon'ble Commission has in paragraphs 5.1.27 to 5.1.54 of the Tariff Order, applied the CAGR for each category and provided for its own sales forecasts which are in complete contradiction to the MERC Resource Adequacy Regulations, 2024 and beyond the role of the Hon'ble Commission as provided in the Electricity Act and Regulations made thereunder.

69. The Hon'ble Commission must therefore correct the erroneous approach and proceed to adopt the Sales Forecasts based on the RA Framework submitted by MSEDCL. Consequentially, the Hon'ble Commission is also requested to correct the Power Purchase disapproved solar capacity of 5 GW basis the correction sought here in sales forecast.

70. On the basis of the aforementioned facts and submissions, it is humbly submitted that this Hon'ble Commission may be pleased to rectify the apparent errors in

estimation of projected sales and the procurement and despatch model adopted by this Hon'ble Commission and suitably revise the approved power purchase cost for the Fifth Control Period.

**III. Manifest errors in determination of Agricultural Sales: disallowance of technical losses and impact on AG sales index**

71. The Review Petitioner states and submits that this Hon'ble Commission has committed gross error in the MYT Order. In this regard, the specific submissions are as under:

- (a) Non-Consideration of data to suggest 9.1% technical losses on Agricultural ("AG") Feeders;
- (b) Inconsistency in approach for True-Up periods;
- (c) Non-Consideration of the rising trends in AG Sales Index with the increasing sample size.

**A. Non-Consideration of data to suggest 9.1% technical losses on AG Feeders**

72. At the outset it is stated that for arriving at AG Sales Index, the three factors that must be considered are, Feeder Input Energy, Technical Losses & Connected AG Load. The instant issue is being raised in respect of "non-consideration of technical losses" which has an impact on the AG Index, which in consequence impacts the total AG Sales, distribution losses and thereby whole energy balance by the Review Petitioner.
73. In respect of the technical losses on AG Feeders, this Hon'ble Commission has merely noted the submission of the Review Petitioner qua technical losses, which were submitted at 9.1% without any further basis or statement towards non-consideration of the same, thereby notionally rejecting the 9.1% technical losses submitted by the Review Petitioner.
74. That while rejecting/not considering technical losses the Hon'ble Commission has grossly erred in extending its regulatory role as a regulator, resulting in disallowance/denial of reliable, cogent and methodical computation of technical losses submitted by the Review Petitioner, which data has been scientifically

procured from reliable and consistent software and is in complete compliance with any directions given by the Hon'ble Commission in this regard.

75. Rather, by discarding the technical loss computation provided by the Review Petitioner, this Hon'ble Commission has also not provided a better way forward and has rather set the clock back to the erstwhile computation of technical losses without any basis or reason. In the order, the Hon'ble Commission has noted 9.1% technical losses but has neither commented nor accepted the feeder technical loss as 9.1%. Hence, the Hon'ble Commission has left the Review Petitioner clueless about the consideration of %age of technical loss for calculating AG feeder index and thereby AG sales. Moreover, the non-consideration is in completely erroneous and oversight. Hence, the Hon'ble Commission is requested to consider the technical losses at 9.1%, based on the scientific data submitted by the Review Petitioner.
76. That a non-reasoned denial/non-consideration of the technical loss percentage data is without any basis and is an error on the face of it. Such denial is also beyond the regulations made in this regard.

#### ***AG Working Group and Technical Losses for AG Sales Index***

77. The instant issue finds its genesis in the report that was prepared by a working group formed by this Hon'ble Commission. This Hon'ble Commission decided to conduct an independent study for assessment on AG Sales, which would form the basis of establishment of AG sales from FY 2014-15 and in subsequent years. In this regard, it constituted a Working Group for Agricultural Consumption Study ("**AGWG**"), which developed the study approach, conducted field surveys through appointed Survey Agencies, and analysed data from both surveys and the Review Petitioner. An Interim Report was submitted in January 2020 and published on this Hon'ble Commission website for public comments. After reviewing the feedback, the AGWG submitted its Final Report on 11.03.2020, detailing findings on metered AG consumption, AG consumption norms, and validation of total AG consumption based on feeder meter input from 502 feeders covering about 2.3 lakh AG consumers. The report also provided suggestions for determining AG Sales for FY 2014-15 and the 3rd Control Period (FY 2016-17 to FY 2019-20), along with a proposed methodology for future measurement and estimation of AG consumption. In this context, the Hon'ble Commission in Order of 322 of 2019 notes the observations and suggestions made by AGWG, which are summarised below:

- (a) Feeder input based metering, as considered in this report, enables capturing consumption of large number of AG consumers in an economical, efficient and reasonably accurate manner. **For example, sample 502 feeders considered in this study covered total of about 2.3 lakh AG consumers (i.e. more than 5% of total AG consumers of the Review Petitioner).**
- (b) Based on field survey input, it is certain that ensuring reasonably accurate metering of AG consumers is going to take some time and AG sales will need to be estimated for few more years. **Hence, it is important to continuously improve reliability of such estimation, by ensuring correct consumer mapping, reliable and accurate feeder metering, identification of missing / defunct AG connections and restating total AG connected load to that extent.**
- (c) **Analysis carried out by the AGWG also indicates that even technical losses on AG feeders may be different for different feeders and could be higher than expected.**

78. That further in the said case, the Hon'ble Commission notes in the said case, qua Technical Losses, as under:

*"... that AGWG has computed only Technical Losses based on loading data available from the Feeder meter and physical parameters of the various elements (such as conductor size, length, DTC parameters etc) of the feeder. However, the AGWG is not able to look into commercial and billing losses on these feeders as primary requirement for this is metered sales of all consumers which is not accurately available. As observed earlier, chances of having higher commercial loss and hence higher total losses on account of long list of paid pending Ag connection applications, unauthorised use etc. cannot be ruled out. Hence, MSEDCL needs to work towards reducing these losses on Ag feeder for having reliable Ag estimation. Also, continuous monitoring of selected feeder over the longer period would factor in changes such as regional (climatic/cropping) changes, seasonal changes, ground water levels etc.in addition to factors mentioned by the WG. This exercise will result in incremental improvement in the AG estimation over a period of time..."*

79. It is pertinent to state that the AGWG computed the "technical losses" for only 44 feeders out of 502 feeders. The technical losses on the 44 Feeders were in the range of 6-28% and the weighted average was considered at 18%.

80. During this period, for the purposes of '*implementation feeder-based billing*', this Hon'ble Commission, in respect of technical losses qua 'AG Sales' issued directives as under in Clarificatory Order 79 of 2020 dated 30.03.2020:

*"21. Therefore, **till the feeder wise actual technical losses are not available**, the Commission **allows MSEDCCL to use 18% as Technical Loss** for implementing feeder input based billing to Agriculture **consumer connected on 502 selected feeders**. Further, this billing method (billed for units consumed arrived based on feeder input) will be applicable to all Agriculture Consumers (metered or un-metered) connected on that feeder."*

81. Hence, the directions in the order dated 30.03.2020 was a time-bound one, i.e., until the feeder wise actual technical losses were available. The fact that the sample size of only 44 feeders was considered for calculation of technical losses was a factor for the Hon'ble Commission to clarify that "until" the feeder wise actual technical losses were available (meaning better/improved data) only until said period, the Review Petitioner was to consider/use 18% as Technical Losses for the consumers of 502 feeders. Having said that, the Hon'ble Commission did apply the technical losses of a very small sample size to a larger sample size of 502 feeders for an interim period.
82. That thereafter as well, considering the ongoing exercise of improving of the data from the AG feeders, the Hon'ble Commission in its order of 2022 gave further directions. That in the said MTR order of 2022, this Hon'ble Commission directed the Review Petitioner regarding submission of detailed roadmap and action plan for undertaking activities for operationalizing feeder input based AG billing. Further, it was explicitly mentioned that the outcome of results and methodology finalized through AGWG study shall form basis for approval of AG sales from FY 2019-20 onwards. In which ensuring availability of feeder meter readings (AMR/MRI), Web-publishing of Feeder-wise AMR/MRI data, Metering the DTC (AMR), to start with the DTC on all the 502 feeders, Feeder-wise mapping of consumers (AG and Non-AG) and indexing/geo-tagging of consumer data to, compiling/updating Feeder profile information and undertaking technical loss assessment of Feeder based on feeder length, no. of DTCs and its distribution across feeder, current loading pattern, LT circuit distribution and number of pump sets/connected load was also provided for.

83. Hence, ever since the constitution of the AGWG the Hon'ble Commission, in respect of technical losses has been specifically suggesting to improve data and provide better data.

***Deployment of the CYMDIST in furtherance of the directions of this Hon'ble Commission: Reliable and Scientific method of computation of Technical Losses***

84. That it was in the endeavour of the same and in furtherance of arriving at the most accurate data of feeder wise actual technical losses, that the Review Petitioner initiated computation of technical losses with advanced software "CYMDIST".
85. That from the last one year the Review Petitioner has exhaustively carried out the exercise of installation of DTC meters and also has utilized the renowned scientific method through CYMDIST software to calculate the feeder technical loss presently for all 535 feeders selected by this Hon'ble Commission.
86. In this regard, it is pertinent to state that the Review Petitioner took/ and is taking all efforts to comply with the directives. Though there are various challenges like scattered and lengthy network, large consumer base and communication challenges for AMR etc., still the Review Petitioner is edging towards completing the DTC level metering, technical loss computation of AG feeders selected by this Hon'ble Commission. The feeder level data is regularly uploaded on the website.
87. Further, the Review Petitioner has calculated technical loss for feeders which include all the feeders selected by this Hon'ble Commission through the CYMDIST software, which on average comes to 9.1%.

***About CYMDIST***

88. At the outset, it is stated that the CYMDIST Software is an advanced method of computation of technical losses In this regard, it may be noted that:
- (a) There is no manual intervention required for computation of technical losses on the CYMDIST Software.

- (b) That also the MoP, GoI had formed a committee to identify software package for study and analysis of sub-transmission and distribution of power. The Committee report is attached herewith as **ANNEXURE P-11**. This CYMDIST software is recommended by the Committee.
- (c) The CYMDIST Software has been in use by TATA-Power-Del, BEST, BSES Yamuna and MP Poorv Kshetra Vidyut Vitra Co. Ltd.. Please see **ANNEXURE P-12**.

89. The Review Petitioner procured the CYMDIST Software in August 2023. After a one-time feeding of the data relating to AG feeders, such as HT Line, LT Line, DTC, Line Lengths, Conductors Size, Sanction load of the consumer, DTC capacity etc., i.e. all the technical information required for scientific and accurate calculations of technical losses the said software requires no manual intervention whatsoever.
90. It is pertinent to state that while the AGWG considered a few parameters for arriving an at average Technical Loss of 18%, the CYMDIST software considers those and other additional parameters for computation of Technical Losses. A comparison is as under:

Parameters considered for 44 Feeders while arriving at an average Technical Loss of 18%	Parameters that CYMDIST considers while arriving at an average Technical Loss of 9.1%
<ul style="list-style-type: none"> <li>• Feeder length,</li> <li>• Conductor size,</li> <li>• Number of DTs, and</li> <li>• Year-round load profile of the feeder</li> </ul>	<ul style="list-style-type: none"> <li>• HT Line length,</li> <li>• HT Conductor,</li> <li>• Transformer Capacity and its location</li> <li>• LT line length,</li> <li>• LT line conductor,</li> <li>• Connected AG consumers, their names, consumer numbers, connected load rating in HP and connectivity to respective LT pole no.</li> <li>• Online capacitor location and its capacity</li> <li>• Peak demand month load profile</li> </ul>

91. Therefore, the Review Petitioner updated and computed the average technical losses of 535 feeders as per CYMDIST Software which was 9.1%. It is critical to state that the Review Petitioner calculated the technical losses for 535 feeders (December, 2024) as opposed to the 44 feeders, through the CYMDIST Software. This Technical loss analysis was done for 535 Feeders through CYMDIST by the Review Petitioner with corresponds to peak demand for 1 month (i.e. peak demand period of April/May).
92. It is pertinent to mention here that the average technical loss of 18% on AG Feeder was computed on the basis of 44 feeders which was based on assumptions such as:
  - (a) Feeder is radial with equally spaced nodes,
  - (b) All the distribution transformers ("DT") are assumed to be equally loaded and receive the same input at the H.T. side,
  - (c) Losses in DTs are worked out after taking into account the DT efficiency of 98%.
93. That the average technical loss of the 535 selected AG feeders is in the range of 9.1% which is almost half of the losses calculated by this Hon'ble Commission on assumption and on a limited sample size of 44 AG Feeders. This Hon'ble Commission calculated the technical loss of 18% in its Order 322 of 2019. **However, based on the analysis using CYMDIST software with data from these 44 feeders, the average technical loss was found to be 8.33%.**
94. That the Review Petitioner laid out an ambitious plan to improve reliability of power supply, enhance customer services and implement cutting edge technology. The Review Petitioner has adopted various engineering analysis tools and taken major initiatives for improvement in distribution network performance. the Review Petitioner has conducted Network analysis to optimize the technical losses and improve network conditions. The main objective of this exercise was to evaluate the 11KV AG Feeder Power distribution network and compute technical & energy losses in scientific manner which shall help to derive the strategy for finalization of feeder level AG index.

95. It is pertinent to note that, for computation of technical losses on CYMDIST, the Review Petitioner uploads all collected network data including HT Line length, size/type of HT conductor, Transformer capacity, LT line length, size/type of LT line conductor, details of connected individual consumer, their names, AG consumers, consumer numbers, connected load rating in HP and connectivity to respective LT pole no. Etc.
96. It is also pertinent to note that the Review Petitioner had also submitted for the Hon'ble Commission's consideration a comparison of the feeder losses up to the DTC level with the total feeder loss as per CYMDIST, and the same were found to be of an acceptable range. However, the Hon'ble Commission did not consider and erroneously overlooked the said data submitted by the Review Petitioner.
97. That in light of the foregoing, it is stated that the computation through CYMDIST are the most reliable and scientific data for technical losses and the Hon'ble Commission has erroneously not considered the same.
98. The Hon'ble Commission erroneously rejected the said submission and made a gross error in considering 18% as Technical Losses, which was based on the report of the AGWG and for a sample size of 44 feeders. Rather the Hon'ble Commission exceeded its role as a regulator in rejecting scientifically collected and collated data over historically available inchoate data. That, if the technical loss was considered at 9.1% rather than 18% on 1054 Feeders selected by the Hon'ble Commission, then AG sales index would be 1,537 kWh/HP/Annum and the impact is as under:
99. The table below shows impact of sharing of Gains/Losses (Rs. Crore.)

Period	Impact on Sales	Impact on Losses	Impact
FY 2022-23	7,307 MUs	5.87%	Rs. 2,324 Crore.
FY 2023-24	3,663 MUs	2.15%	Rs. 948 Crore.

100. In furtherance of the submissions hereinabove, reference is made to Regulation 101.1 of the MYT Regulation 2024 which provides as under:

*101. Sales forecast*

*101.1 The Distribution Licensee shall submit a month-wise forecast of the expected sales of electricity to each Tariff category/sub-category and to each Tariff slab within such Tariff category/sub-category to the Commission for approval along with the Multi-Year Tariff Petition, as specified in these Regulations: Provided that the Distribution Licensee shall submit relevant details regarding category-wise sales separately for each Distribution Franchisee area within its Licence area, as well as the aggregated category-wise sales in its Licence area.*

*101.2 The sales forecast shall be consistent with the load forecast prepared as part of the power procurement plan under Part C of these Regulations and shall be based on past data and reasonable assumptions regarding the future:*

**Provided that where the Commission has stipulated a methodology for forecasting sales to any particular Tariff category, the Distribution Licensee shall incorporate such methodology in developing the sales forecast for such Tariff category.**

101. Hence, in terms of the above specific provisions of the MYT Regulations, it is noteworthy that while submission of any forecasts or numbers or data, in case where the Hon'ble Commission has stipulated a methodology for forecasting sales to any tariff category, the Distribution Licensee shall "incorporate" such methodology in developing the sales forecast for such Tariff category. The said provision does not in any manner suggest that the methodology developed by the Hon'ble Commission shall be sacrosanct. It is rather pertinent to state that CYMDIST does incorporate the method/process adopted by the Hon'ble Commission in computation of technical losses for 44 feeders. Hence, any computation from CYMDIST must then be considered for the purposes of computation of AG Sales Index.

102. In the present case, the methodology that was prescribed has been completely adopted by the Review Petitioner for technical loss through CYMDIST for AG Feeders. Hence, the computation submitted by the Review Petitioner which was based on a scientific process and system/software generated could not have been rejected, especially without any basis for suggesting better software or data.

103. Further, in terms of Regulation 100.2, the Tariff for retail supply by a Distribution Licensee has to be determined by the Hon'ble Commission on the basis of the

petition filed by the Licensee for determination of tariff. Thus, while determining the retail Tariff for different Tariff consumers, the Hon'ble Commission ought to take into consideration the data/computation submitted by the Review Petitioner. It is settled law that where a statute provides for a thing to be done in a particular manner, then it must be done in that manner and in no other manner.

104. It is also further stated that the requirement of Regulation 101 is that the distribution licensee shall incorporate the methodology in developing the sales forecast, which does not in any manner mean that the methodology developed by the Hon'ble Commission is sacrosanct and cannot be altered. The fact that the CYMDIST data is scientific, reliable and does follow the same methodology adopted by the Hon'ble Commission, it cannot be merely rejected for the same is then grossly erroneous, specifically when Hon'ble Commission does not have the wherewithal and the powers to provide for any better data but to merely confirm and affirm if the data submitted through CYMDIST is reliable and cogent. Where the provisions stated above have been followed, there is no basis for Hon'ble Commission to reject the data submitted by the Review Petitioner.
105. In this regard it is submitted that the sales forecast data submitted by the Petitioner is system generated based on scientific and computerized processing of data. Thus, there is minimal margin of error or anomaly in the final data so generated. Hence, the sales forecast and %age of Technical Losses submitted by the Review Petitioner was based on realistic estimates and there was no legitimate basis for the Hon'ble Commission to modify such data or to completely reject such data.
106. Further, only where the Hon'ble Commission stipulates a particular "methodology" to be followed while generating sales forecast data, the said methodology has to be adopted/considered while developing such data, which also cannot be termed as the mandatory or sole methodology for computation of technical losses.
107. That since the Hon'ble Commission did not prescribe any "methodology" for technical loss which is finally fed/used for arriving at AG Index, it was not open for the Hon'ble Commission unilaterally reject/not even consider the scientifically generated data submitted by the Review Petitioner.

108. Moreover, the finding of the Hon'ble Commission that there has been transparency in uploading of the data is no basis for rejection of the data submitted towards Technical Losses. In this regard, it may be noted that the Hon'ble Commission has rejected actual sales data/estimates qua the "additional feeder data" by generically stating that, "*the inclusion of an additional 1,168 feeders in the AG Index methodology must be undertaken with due diligence, adhering to all the steps outlined in the MYT Order 322 of 2019*". The specific non-compliance of the MYT Order, i.e. Order issued in Case No. 322 of 2019 and MTR of 2022, that was then highlighted was, "*delay in sharing feeder-based input data to be put out in public domain in timely manner for verification/validation by stakeholders*". The fact that the data has not been put in public domain cannot be the basis for rejecting the consideration of the data completely. The fact that the said requirement of putting out the data in public domain was provided in the first place was to build stakeholder confidence (which is an ongoing process) and not for the purposes of computation of actual data itself. The said requirement, as also provided in Case No. 322 of 2019, was to improve transparency and stakeholder confidence. In this regard, the following may be noted:

*"8.10.10 Further, ascertaining of the technical loss/commercial loss on such feeder is pre-requisite for ascertaining the AG sales using AMR based feeder input mechanism. In this context, the Commission reiterates its observations and ruling outlined under MYT Order in Case 322 of 2019 that in order to have a credible arrangement of feeder input based methodology, (through operationalising the feeder input based methodology), it is important that **feeder-based energy accounting data based on AMR/MRI is maintained and made available in automated manner** without manual intervention and without need for assessment due to any reason (including but not limited to CT/PT errors, mapping errors, communication errors etc.). Further, estimation of feeder-wise technical losses (by segregating losses on account on wrong/non billing and unauthorised consumption (if any), mapping of AG and Non-AG consumers on the feeder, updating master data thereof and **timely publishing this information in transparent manner on regular basis is essential, which will boost the confidence level of all stakeholders** in ascertain a better estimation of actual AG consumption in the state using Feeder Input based methodology, in the absence of actual metering of entire AG consumers."*

109. Hence, in light of the foregoing it is submitted that the Hon'ble Commission has erred in not considering/overlooking the scientific computation of technical loss of 9.1% and rather suggesting to consider 18% technical losses (which was a limited data of 44 feeders). That the Hon'ble Commission is requested to correct the error of not considering the 9.1% technical losses for the reason that the same have been published with a bit of a delay, and which delay only is to boost stakeholder confidence but does not essentially take away the merit and sanctity of the computation done using CYMDIST.

***B. Inconsistency in approach qua AG Sales and Technical Losses for the True-Up Periods of FY 2022-23 and FY 2023-24***

110. That in respect of the true-up periods, the Hon'ble Commission has erred by applying inconsistent AG Sales Index.
111. In FY 2022-23, this Hon'ble Commission has approved the Sales Index of 1,216 kWh/HP per annum. This figure was arrived at basis the data submitted by the Review Petitioner. They have considered 506 to 514 feeders for different quarters (please see Table 7 of the MYT Order) and data corresponding to the year – basis this AG Sales for that year were decided and that was around 28,758 MUs while the Review Petitioner proposed 36,635 MUs. Basis the said AG Sale Index was calculated at 1,216 kWh/HP per annum.
112. However, in complete inconsistent consideration, for the FY 2023-24, Hon'ble Commission has approved the Ag Sale Index of 1377 kWh/HP per annum. In this calculation, the Hon'ble Commission has considered 525 additional feeders, i.e. a total of 1054 feeders (please see Table 12 of the MYT Order) as opposed to 506 to 514 feeders for the FY 2022-23. The implication of the erroneous conduct of the Hon'ble Commission is that if the AG Sales index of 1054 feeders of FY 2023-24 are considered for FY 2022-23 then the AG Sales would alone go up for FY 2022-23 by 3,552 MUs. In the later part it is also mentioned that how this Hon'ble Commission has previously retrospectively approved the AG sales for past period.
113. The Hon'ble Commission in its MYT Order 322 of 2019 has considered the AG Sales Index to be applicable for a period prior to 2019 as also noted in Para 4.2.37 hereunder along with other relevant paragraphs. Reliance is placed on the same to state that the Hon'ble Commission gives retrospective effect in the

instant case as well to the revised figures/data submitted by the Review Petitioner:

"4.2.32 As regards assessment of distribution loss level for past period (incl. true-up for FY2017-18 and FY2018-19), the Commission observes that under its MTR Order it has stipulated as under:

"3.2.34. The Commission would undertake a detailed review of the methodology of determination of AG Sales based on the Study proposed to be carried out by the Commission through a third party agency appointed. The methodology finalised through **this study shall form the basis for approval of AG sales during truing up exercise to be carried out at the end of the 3<sup>rd</sup> Control Period and for years FY 2014-15, to FY 2016-17.** However, it is clarified that as the true-up of ARR for these years is already over (except for the assessment of AG sales and corresponding revision in the distribution loss thereof (if any)), **the revision of revenue gap (over-recovery or under-recovery) shall be undertaken only in terms of sharing of distribution loss.** For this purpose of sharing of gains/losses same methodology and principles as adopted through this MTR Order for respective years shall be followed for such adjustment." (emphasis added)

4.2.33 However, the Commission agrees with the observations made by AGWG that it needs to be noted that this difference in now estimated distribution loss of around 5.8% (i.e. 20.54% as compared to that claimed by MSEDCL 14.7% for FY 2018-19) is a result of better estimation of AG sales that was possible due to improved feeder metering undertaken in recent years and Commission's consistent emphasis, since 2011, to undertake third party independent estimation of AG sales. Also, the estimate of Distribution losses can be further improved by continuously monitoring the feeder input and updating the master data with accurate mapping. The possibility of the Distribution losses in earlier years could be at the same level of FY 2018-19 but could not have been accurately estimated in the absence of detailed exercise as carried out by MSEDCL and the working group.

4.2.34 Further, in this context of reassessment of AG sales for past period and the treatment of past period distribution losses, the Commission also notes the following observations of AGWG:

Government of Maharashtra also provides subsidy to reduce agricultural tariff. This subsidy is based on connected load (HP) of un-metered AG consumers and sales to metered consumers. This subsidy is provided on

*the basis of gross numbers and not to any specific individual. Restatement of AG sales to 70% of earlier estimates implies that on per unit basis Government subsidy towards agricultural consumption was in fact more. In the absence of such subsidy, entire burden of additional losses (except loss reduction target of typically 1% to 2% points) would have fallen on MSEDCL consumers and average tariff would have increased. **Thus, even though AG sales are restated, government subsidy calculated on the basis of earlier estimates, has helped reduce burden of excess losses, cross-subsidy as well as tariff for all consumers of MSEDCL. Being regulated entity MSEDCL cannot make any profit out of such subsidy amount.***

- 4.2.35 *The Commission tends to agree with above observations of AGWG. As explained earlier, estimation done by the AGWG is a different way of moving towards a more accurate estimation. The estimation method used by MSEDCL earlier and which was transparently informed to the Commission all along clearly implies that MSEDCL all along had kept the Commission in knowledge of the estimation mechanism. The Commission would like to categorically state here that the method of AG estimation (using metered Ag sale for estimation of un-metered Ag sale ) used by MSEDCL was approved by this Commission in the past. However, over the period as technological tools become available, the Commission through AGWG is intending to improve upon such methodology for estimation of Ag sale. Also, the additional subsidy which appears due to change of methodology is the correct subsidy based on the methodology adopted by MSEDCL in the past. Also, the subsidy in no way is resulting in any gains of any kind for MSEDCL. In fact, as observed by AGWG as a result of additional losses in previous period, possibly the Government could have retained the overall amount of this subsidy by increasing the per unit/per hp subsidy and the tariffs for other consumer categories would have been maintained at the present levels. Alternatively, the tariffs of the subsidizing consumers would have been required to be increased further to balance the ARR of MSEDCL. Thus, the Commission categorically states that the difference in the estimation of Agriculture consumption is only due to the improvement in availability of automated metering data due to which a better methodology for estimation could be adopted.*
- 4.2.36 *Under the circumstances, the Commission would undertake a detailed review of the operationalisation of Feeder Input based methodology of determination of AG Sales at the time of MTR, as per roadmap and action plan put in place by MSEDCL. The*

*outcome of results and methodology finalised through this exercise shall form the basis for approval of AG sales from FY2019-20 onwards, during truing up exercise to be carried out at time of MTR.*

*4.2.37 As highlighted in earlier paragraphs, the Commission has decided to give effect towards treatment of past period loss level (i.e. from FY 2014-15 to FY 2018-19) to an extent of only 50% of estimated impact on account of variation in distribution loss (now ascertained). The detailed computation of treatment for sharing of gains/losses on account of distribution loss level for past period alongwith rationale thereof, is elaborated under subsequent chapters of this Order."*

114. It is submitted that non-consideration and erroneous non-consideration of the technical loss data is an irreparable and irreversible damage to the actual data available in respect of the feeders, and hence must be corrected. It is hence trite that the Hon'ble Commission in furtherance of its own order and directions considers the present day scientific data for all future purposes.

**C. Non-Consideration of the rising trends in AG Sales Index with the increasing sample size**

115. The Hon'ble Commission recognises that the AG Index based on the existing Methodology followed by the Review Petitioner needs to be revisited. The anomalies and limitations of the existing processes for assessment of AG Index would emerge from the Committee's Report. Accordingly, the Hon'ble Commission constituted a Working Group for Agricultural Consumption study (AGWG). Upon its constitution AGWG has carried out detail discussions on the approach for the study, conducted field surveys through appointed Survey Agencies through field survey as well as from the Review Petitioner. A stratified random sampling approach was proposed for selecting the representative sample of feeders covering fairly wide geographical distribution.
116. This sampling methodology would result in agricultural electricity consumption estimated on these feeders being representative of the Maharashtra state as a whole. As such, this method enabled state-wide estimation of AG sales. Data collected through survey and feeder meter data along with other parameters as may be required were analysed to arrive at feeder level Agricultural consumption index. The results are then extrapolated to estimate the total annual agricultural electricity consumption in Maharashtra

117. Methodology for estimation of AG sales: Feeder-wise AG consumption (in kWh) was calculated by subtracting non-AG sales and feeder losses (18%) from metered feeder input. This was then used to calculate feeder wise consumption norm / index, in kWh/HP/yr. and hrs./HP/yr. by dividing AG consumption by total AG connected load on the feeder as per the Review Petitioner billing / master data.
118. Finally, based on the Working Group's study, Hon'ble Commission had finalised AG consumption norm as 1181 units/HP/annum for agricultural consumers which is the basis for estimation of AG sales in future.
119. The Review Petitioner has filed appeal against this Hon'ble Commission's Order in Case No. 322 dated 30.03.2020 related to re-assessment of AG sales before the Hon'ble APTEL, which is currently pending adjudication. The Review Petitioner submitted the present petition without prejudice to any rights or contention taken in the appeal.
120. In MTR, the Review Petitioner had made additional submission regarding feeder-based assessment of AG sales. the Review Petitioner had pointed out that using the AG index determined based on a small sample size of 502 feeders (which is less than 5%) to determine the entire Agriculture Sale of the Review Petitioner is unjustified and is leading to inaccurate/erroneous results of AG sale resulting in financial loss to the Review Petitioner . Further, the Review Petitioner has also submitted that it has conducted an analysis of feeders which are not selected by the Hon'ble Commission, using actual data and identified other sample feeders in accordance with the methodology provided by the Hon'ble Commission in its MYT order. For purpose of its analysis, the Review Petitioner has considered feeders no. as 1427 (FY2019-20), 996 (FY 2020-21), 1362 (FY2021-22). the Review Petitioner has then determined the AG Sales based on the index derived from these additional feeders. Further, the Review Petitioner had conducted the study to determine the AG index by distributing the whole exercise in three separate scenarios.
  - (a) Scenario-1: for analysis on 502 feeders selected by the Hon'ble Commission.
  - (b) Scenario-2: for analysis of the entire AG feeders of the Review Petitioner, which meet the criteria per the this Hon'ble Commission directives methodology

- (c) Scenario-3: for analysis of AG feeders of the Review Petitioner with the same methodology but with a more accurate sample size based on the theory.

121. However this Hon'ble Commission rejected the Review Petitioner's submission saying that the information was neither submitted at the time of technical validation nor prior to or during the public hearing process to enable scrutiny and filing of objections/ comments/ suggestions from stakeholders. Further, selection of representative sample feeders should be unbiased and such sampling should be done at the start of billing exercise.
122. Presently consumers connected on 529(MERC selected feeders) + 1168 (Additional MERC selected feeders) = 1697 feeders are billed on the basis of methodology provided by this Hon'ble Commission as directed in Order 322 of 2019. The metering and consumer mapping activity was taken on these feeders and after that these feeders were added to Feeder input based billing activity.
123. After MTR order 226 dated 31.03.2023, the Review Petitioner has scrupulously taken the feeder metering and monitoring the feeder meter data and keeping the up to date records of the same. As on March – 24 the Review Petitioner has 11,110 AG feeders. Averagely 85% AG feeder meter reading is available by AMR/MRI.
124. As mentioned above, the Review Petitioner always submitted that AG sales estimation on the basis of 502 feeders Index is not appropriate. As the sample size increases more accurate will be the AG index and it will be closer to THE MSEDCL's submission.
125. MSEDCL is submitting additional data of 5644 AG feeders for FY 2023-24. THE REVIEW MSEDCL is taking sincere efforts towards correctness of AG feeder data i.e. meter reading and consumers level information. But keeping in mind the widely spread network and consumers, there are various issues like unavailability of network, power failure, maintenance etc. in receiving the 100% feeder meter readings through automated reading process. These 5644 feeders are selected on the basis of 12 months feeder meter data availability through AMR / MRI without human interference and proportionate distribution of feeders over all Zones as per 502 feeders which is as follows;

ZONE	No Of Feeders	% concentration	Concentration of 529 MERC feeders as on March 2024
AKOLA	361	6.40	6.62
AMARAVATI	270	4.78	4.73
BARAMATI	1070	18.96	18.90
CH. SAMBHAJINAGAR	362	6.41	6.24
CHANDRAPUR	50	0.89	0.00
GONDIA	50	0.89	0.76
JALGAON	675	11.96	11.91
KOLHAPUR	450	7.97	7.75
LATUR	600	10.63	11.91
NAGPUR	165	2.92	2.84
NANDED	325	5.76	5.86
NASIK	1210	21.44	21.55
PUNE	56	0.99	0.95
<b>MSEDCL</b>	<b>5644</b>	<b>100.00</b>	<b>100.00</b>

126. While submission of AG feeder index data for MYT it was observed that, though the Ag feeder meter data was available with the Review Petitioner, the DTC and consumer mapping activity was not in place. Hence, the DTC and consumer level mapping was promptly initiated .However as large number of feeders, DTCs and consumers data was involved, it took considerable time. This DTC and consumer mapping and verification was completed by March-2025 . Therefore, the Review Petitioner was neither able to publish feeder data in public domain nor able to submit in MYT petition.
127. As per the Hon'ble Commission's feeder index methodology the Zone-wise AG index of these feeders computed and it is as follows.

ZONE	No Of Feeders	Total input (Mus)	Non AG Sale (Mus)	AG Load (HP)	AG Sale with 18%	AG Sale with 9.1%	Index with 18%	Index with 9.1 %
AKOLA	361	1475	92	874113	1118	1249	1279	1429
AMARAVATI	270	988	113	602611	697	785	1156	1302
BARAMATI	1070	5903	288	3078355	4553	5079	1479	1650
CH. SAMBHAJINAGAR	362	1106	84	882268	823	921	933	1044
CHANDRAPUR	50	135	54	65257	56	68	863	1047
GONDIA	50	160	33	59604	98	112	1645	1885
JALGAON	675	2709	70	1489021	2152	2393	1445	1607
KOLHAPUR	450	2093	93	1379104	1623	1810	1177	1312
LATUR	600	2469	179	1284239	1846	2066	1437	1608
NAGPUR	165	424	127	242245	221	259	912	1068
NANDED	325	1177	100	559880	865	970	1545	1732
NASIK	1210	5688	229	2690865	4435	4941	1648	1836
PUNE	56	370	56	141462	247	280	1749	1982
<b>MSDCL</b>	<b>5644</b>	<b>24697</b>	<b>1517</b>	<b>13349025</b>	<b>18734</b>	<b>20932</b>	<b>1403</b>	<b>1568</b>

128. It is observed that, AG Index of the Review Petitioner using 18% technical loss is 1403 kWh/HP/Year and corresponding AG sale is 33774MUs. In case 217 of 2024 para 3.2.46, the Hon'ble Commission has raised the question about reliability of data as Commission observed that even after considering the AG Index of 1,518 Unit/HP/annum (with feeder technical loss 9.1%), the estimated sales for FY 2023-24 works out to 36,532 MUs which are still lower than agriculture sales of 39,561 MUs as claimed by the Review Petitioner in its MYT petition. In this regards the Review Petitioner submits that the Review Petitioner which supplies electricity to Maharashtra state (except some parts of Mumbai city) has tremendous geographical variation. It has areas with where some districts experiences deficient rainfall, while others are affected by floods. Also having wide variety of cropping pattern. Though the Hon'ble Commission has taken care of covering all Maharashtra while selecting 502 feeders( out of @11000 Ag feeders),being a small sample(4.5%), it cannot truly represent the Agriculture consumption pattern of Maharashtra. Hence as the sample size increases, AG index will be more accurate.

129. As mentioned in 3.2.29 para in MTR 226 of 2022, Hon'ble Commission had rejected the additional submission of AG feeder index with revised sets of feeder data. Besides this the Review Petitioner is again providing the new set of 5644 feeder data and AG index calculations in justification of its data submitted for MYT 217 of 2024 to emphasise that,

- a. As sample size increases, AG index improves and reaches the AG Sale value as per the Review Petitioner's submission.

- b. The AG Index methodology is not flawless, as sampling increase, % feeder technical loss rectified the AG Index changes. the Review Petitioner's data is reliable.

130. However to determine the entire Agriculture Sale of the Review Petitioner on the basis of small sample size is unjustified and is leading to inaccurate / erroneous results of AG sale resulting in financial loss to the Review Petitioner. It is, therefore, submitted that this Hon'ble Commission may be pleased to review its findings in the above respect, and revise the computation of AG sales based on the Review Petitioner's submissions hereinabove.
131. Hence, the Review Petitioner herein seeks that the Hon'ble Commission must consider the AG Sales as submitted by the Review Petitioner for True-up years, Provisional True-up year and for the Fifth Control Period.

**IV. Erroneous findings with respect to Time of Day ("ToD") tariff and banking provisions**

132. It is submitted that this Hon'ble Commission has committed a manifest error by issuing banking related directions in the MYT Order, while determining the ToD slots and ToD tariff, as such directions were beyond its jurisdiction in the present proceedings. Briefly put, this Hon'ble Commission's mandate in the present proceedings was limited to determining the duration and slot of solar hours and peak hours and the applicable ToD tariff, as the issues with respect to banking of power are exclusively governed by the provisions of the MERC (Distribution Open Access) Regulations, 2016 ("**DOA Regulations**"). As such, this Hon'ble Commission's findings on banking of power are also palpably inconsistent and manifestly contrary to the provisions of the DOA Regulations and hence illegal on the said account as well.
133. It is submitted that this Hon'ble Commission's findings pertaining to revision of banking related provisions have also been passed in violation of principles of natural justice, as neither there was any proposal from MSEDCL in its MYT petition to revise the banking provisions (as it would be procedurally impermissible), nor was MSEDCL provided any prior notice regarding this Hon'ble Commission decision to revise the banking provisions in the MYT proceedings. As such, the decision to revise the banking related provisions was passed by this Hon'ble Commission without affording an opportunity to be heard to the Review

Petitioner, and hence the said decision needs to be reviewed by this Hon'ble Commission on this ground alone.

134. In addition to the aforesaid, this Hon'ble Commission has also seriously erred in providing rebate of 10 percent during 00.00 hrs to 06.00 hrs. In this regard, it is stated that the Electricity (Rights of Consumers) Rules, 2023 ("**MoP Rules**") only require providing a rebate during the designated solar hours and charging a premium during the peak hours, as such, this Hon'ble Commission exceeded its jurisdiction by granting a rebate suo-motu during the 00.00 to 06.00 hrs time slot.

The Review Petitioner's detailed submissions in this regard are set out below:

**A. Scope of MoP Rules and MYT Regulations on TOD issues**

135. On 14.06.2023, Ministry of Power, Government of India, issued the Electricity (Rights of Consumers) Amendment Rules, 2023 in exercise of power under Section 176(1) & 176(2)(z) of the Act. These amendment rules amended the MoP Rules to include provisions delineating the principle and mechanism for introduction and determination of TOD tariff for distribution licensees. The relevant provision of the MoP Rules is set out below for convenient reference (emphasis supplied):

*"(8A) **Time of Day Tariff.**-The Time of Day tariff for Commercial and Industrial consumers having maximum demand more than ten Kilowatt shall be made effective from a date not later than 1st April, 2024 and for other consumers except agricultural consumers, the Time of Day tariff shall be made effective not later than 1st April, 2025 and a Time of Day tariff shall be made effective immediately after installation of smart meters, for the consumers with smart meters:*

*Provided that, the Time of Day Tariff specified by the State Commission for Commercial and Industrial consumers during peak period of the day shall not be less than 1.20 times the normal tariff and for other consumers, it shall not be less than 1.10 times the normal tariff:*

*Provided further that, tariff for solar hours of the day, specified by the State Commission shall be atleast twenty percent less than the normal tariff for that category of consumers:*

*Provided also that the Time of Day Tariff shall be applicable on energy charge component of the normal tariff: Provided also that the duration of peak hours shall not be more than solar hours as notified by the State Commission or State Load Despatch Centre.*

*Explanation:- For the purposes of this rule, the expression "solar hours" means the duration of eight hours in a day as specified by the State Commission"*

136. As is clear from the aforementioned provision of the MoP Rules, it merely provides for:

- (i) Demarcation of 8 hours in a day as "solar hours";
- (ii) Demarcation of up to 8 hours in a day as peak hours;
- (iii) Rebate on tariff of at least 20 percent during the "solar hours"; and
- (iv) Premium on tariff of at least 20 percent for Commercial and Industrial consumers, and at least 10 percent for other consumers, during the designated "peak hours".

137. It is further clear from a perusal of the aforementioned provision, that there is no mandate/requirement with respect to banking of electricity and the modalities thereof in the MoP Rules. Furthermore, it is also palpably clear that the MoP Rules contemplate providing a rebate on tariff only during "solar hours". This position is also evident by reference to the term "normal tariff" for periods other than "solar hours" and "peak hours", for which a rebate and premium, respectively, is contemplated in the MoP Rules.

138. In furtherance of the aforementioned provisions of the MoP Rules and to give effect to ToD tariff, this Hon'ble Commission included Regulation 115.1 and 115.2 in the MYT Regulations 2024. The said provisions of the MYT Regulations 2024 are excerpted below for ease of reference (emphasis supplied):

### **"115 Time of Day Tariff**

*115.1 The Time-of-Day Tariff shall be applicable to all the Distribution Licensees operating in the State from the date of issuance of the MYT Tariff Order for the Control Period.*

*115.2 **Distribution Licensee shall propose** ToD tariff for its consumers with load of 10 kW and above based on following **indicative time slots** and tariff as percentage of Energy Charge:*

<b>TOD Tariff (Additional Charge or (Rebate) in INR/kVAh (or kWh))</b>				
<b>0900 to 1600 Hrs</b>	<b>1600 to 2000 Hrs</b>	<b>2000 to 0000 Hrs</b>	<b>0000 to 0600 Hrs</b>	<b>0600 to 0900 Hrs</b>
80% of the normal rate of Energy Charge	120% of the normal rate of Energy Charge	110% of the normal rate of Energy Charge	80% of the normal rate of Energy Charge	110% of the normal rate of Energy Charge

*Provided that Distribution Licensee may propose seasonal ToD tariff in its Tariff Petition:*

**Provided further that the distribution licensee to propose their ToD time slots with slot-wise rebate/penalty at the time of MYT or MTR Tariff filing subjected to compliance of the applicable MoP Rules:**

*Provided further that the Commission at the time of MYT Order proceedings may extend the applicability of the ToD Tariff to the other consumer categories after assessing the growth in the demand."*

139. Based on a review of the aforesaid provisions of the MYT Regulations 2024, the following points are palpably clear:
- (i) Ample freedom is contemplated for the distribution licensees to propose and structure their ToD tariff, subject to compliance with MoP Rules;

- (ii) The ToD slots and ToD rebate/penalty mentioned in Regulation 115.2 is only indicative in nature and not mandatory; and
- (iii) There is no reference to banking of electricity or modalities thereof in relation to ToD tariff or slots.

140. As such, based on a combined reading of the MoP Rules, it is clear that:

- (i) Neither the MoP Rules, nor the MYT Regulations 2024 provide for banking related provisions in the context of banking of power;
- (ii) The mandate of this Hon'ble Commission is limited to designating "solar hours" and "peak hours" and determining the ToD rebate and penalty, respectively, only for the said hours and no other time slot; and
- (iii) The onus to structure and propose the ToD tariff rests with the distribution licensee and this Hon'ble Commission is merely required to scrutinize its compliance with the MoP Rules.

***B. Manifest illegality in amendment of banking related provisions:***

**Banking provisions under the DOA Regulations**

141. It is humbly submitted that in spite of the aforementioned limited statutory mandate, this Hon'ble Commission has seriously erred by misdirecting itself and exceeding its jurisdiction by passing directions in respect of modalities of banking of electricity in the MYT Order. In this regard, it is humbly submitted that the provisions with respect to banking have been set out in the DOA Regulations promulgated by this Hon'ble Commission. The relevant provisions are set out below for ease of reference (emphasis supplied):

*"20.3 Banking of energy shall be permitted only on monthly basis.*

*Provided that the credit for banked energy shall not be permitted to be carried forward to subsequent months and the credit for energy banked during the month shall be adjusted during the same month as per the energy injected **in the respective Time of Day ('TOD') slots** determined by the*

*Commission in its Orders determining the Tariffs of the Distribution Licensees;*

**Provided further that the energy banked during peak TOD slots may also be drawn during off-peak TOD slots, but the energy banked during off-peak TOD slots may not be drawn during peak TOD slots.**

*Illustration: Energy banked during:*

- Night off-peak TOD slot (2200 hrs – 0600 hrs) may only be drawn in the same TOD slot
- Off-peak TOD slot (0600 hrs – 0900 hrs & 1200 hrs – 1800 hrs) may be drawn in the same TOD slot and also during Night off-peak TOD slot (However, the energy banked during night off-peak and off peak shall not be drawn during morning peak and evening peak)
- Morning peak TOD slot (0900 hrs – 1200 hrs) may be drawn in the same TOD slot and also during Off-peak and Night off-peak TOD slots
- Evening peak TOD slot (1800 hrs – 2200 hrs) may be drawn in the same TOD slot and also during Off-peak and Night off-peak TOD slots”

142. It is clear from a bare perusal of Regulation 20.3 of the DOA Regulations that as a general rule, any units banked during a particular TOD slot can be adjusted during the “*respective TOD slot*”, i.e., the same TOD slot. The only exception to this rule has been provided under the proviso to Regulation 20.3, which relaxes the general rule to say that energy banked during peak TOD slots may be adjusted during off-peak TOD slots as well. Conspicuously, the proviso **does not** further state that power banked during any off-peak TOD slot can be adjusted during any other off-peak TOD slot. Instead, a conditional dispensation appears to have been provided by way of the illustration, where this Hon’ble Commission has consciously decided to take a graded approach to treatment of energy banked during various off-peak TOD slots. As is apparent from a bare perusal of the illustration to Regulation 20.3, this Hon’ble Commission has consciously followed a clear approach that power banked during a TOD slot can only be adjusted either in the same off-peak TOD slot, or in another TOD slot with a lower tariff (net off any rebate/penalty, as applicable). For instance, energy injected during the night off-peak TOD slot, which had the lowest net tariff (due

to the applicable rebate) at the time of promulgation of the amendment regulations in 2019, was permitted to be adjusted in the same TOD slot.

143. It is humbly submitted that the aforementioned differential approach for various off-peak TOD slots ensured that no undue benefit is derived by a banking consumer, by injecting units during a TOD slot of lower applicable tariff and withdrawing the same during a TOD slot having relatively higher tariff. This approach also adequately protected the interests of the distribution licensee.

**Banking provisions were introduced and amended in the past by this Hon'ble in exercise of its legislative powers to issue regulations after following a public consultation process:**

144. It is further humbly submitted that the aforementioned provisions were introduced by this Hon'ble Commission in 2016 by way of MERC (Distribution Open Access) Regulations, 2016 ("**DOA Regulations**"), after a robust public consultation process, where this Hon'ble Commission had scrutinised in detail all relevant considerations and data, including data with respect to load profile, cost of procurement of power, comments received from stakeholders, including MSEDCL, etc., before fixing the norms and modalities for banking of power. Further, even when this Hon'ble Commission recognised the need to revise the banking related provisions, it undertook such revision process by promulgating the MERC (Distribution Open Access) First Amendment Regulations, 2019 and amending the regulations itself. Even the amendment was carried out after following the same public consultation process, scrutiny of relevant data and due application of mind. As such, while undertaking this exercise on both instances, this Hon'ble Commission had specifically sought to balance the commercial interests of both the licensees as well as the open access consumers.

**Hon'ble Commission has committed an apparent error by seeking to amend the provisions of the DOA Regulations by way of passing the MYT Order in exercise of its tariff determination powers**

145. However, by the MYT Order, this Hon'ble Commission has sought to modify the banking related provisions enshrined in the DOA Regulations by changing the timeslots for injection and withdrawal of banked units, that too without undertaking any amendment to the DOA Regulations or undertaking a public

consultation process. The relevant paragraph of the MYT Order is set out below for convenient reference:

*"7.13.94 Thus, the Commission observes that as per existing banking and ToD regime the open access consumer was able to adjust its surplus generation during daytime (06:00 hrs to 18:00 hrs – i.e. 12 hours) during respective slots and night hours (22:00 hrs to 06:00 hrs – i.e. 8 hours) together for 20 hours (except for evening 4 hours from 18:00 hrs to 22:00 hrs). With proposed Banking arrangement as outlined under this Order, the open access consumer would be able to adjust its surplus generation during day-time (06:00 hrs to 17:00 hrs – i.e. 11 hours) during respective slots and night hours (00:00 hrs to 06:00 hrs – i.e. 6 hours) together for 17 hours (except for evening 7 hours from 17:00 hrs to 24:00 hrs). The Commission believes that this addresses the concerns expressed by objectors/stakeholders as well as that of MSEDCL about management during Peak Hours"*

146. The aforesaid modifications made by this Hon'ble Commission are not only inconsistent and contrary to parallel provisions under the DOA Regulations, but such modifications are also impermissible in law **as provisions of a regulation cannot be modified by way of an order passed under section 86 of the Act**. Further, as per settled law, this Hon'ble Commission is bound by its own regulations and any order passed by this Hon'ble Commission must be consistent with its regulations.

**Hon'ble Commission's decision to amend banking provisions also suffers from other serious factual and conceptual apparent errors**

147. In addition to the above, the aforementioned findings of this Hon'ble Commission also suffer from an apparent factual error where they have assumed that in the existing banking TOD regime, open access consumers are able to adjust surplus generation during respective slots and night hours, cumulatively for 20 hours, and that in the now approved TOD and banking regime, they will be able to adjust the surplus during 17 hours a day. It is submitted that the said submission is patently erroneous and completely alien to the provisions of the DOA Regulations, which contemplates "respective", slot-specific approach to adjustment of banked units. This Hon'ble Commission appears to have erroneously treated all off-peak TOD slots alike while observing that power banked can be drawn during 20 hours a day. Reference may be had to the table

below which sets out the maximum no. of hours within which units injected in the said time slot can be adjusted:

Slots	Banking Adjustment should be as per MERC DOA Regulation 2019 First Amendment	Maximum no. of hours in which unit can be adjusted
Night Off-Peak - 2200 Hrs. to 0600 Hrs	Night Off-Peak	8 hours
Off-peak - 0600 Hrs. to 0900 Hrs. & 1200 Hrs. to 1800 Hrs	Night off-peak, off-peak	17 hours
Morning peak – 0900 Hrs. to 1200 Hrs	All except evening peak	20 hours
Evening peak – 1800 hrs. to 2200 hrs.	All except morning peak	21 hours

148. As is clear from the aforementioned table, the maximum no. of hours in which energy injected during a particular TOD slot may be adjusted varies from slot to slot, and ranges between 8 to 21 hours (as opposed to a flat duration of 20 hours incorrectly assumed by this Hon'ble Commission). This Hon'ble Commission, therefore, has committed a fatal error by removing this distinction inter-se different off-peak TOD slots and has rendered the phrase "**in the respective Time of Day ('TOD') slots**" in Regulation 20.3 as well as its proviso and illustration completely redundant and otiose. Such an order is manifestly illegal and suffers from an error apparent on the face of the record as it has been passed in the teeth of clear provisions of the DOA Regulations.
149. It is further submitted that this Hon'ble Commission's manifestly erroneous decision to modify the banking provisions by way of the MYT Order is prefaced and appear to be based on its following observations at paragraph 7.13.91 of the MYT Order:

*"7.13.91 The revision in ToD Slabs and ToD tariff (Charge/Rebate) presents one such opportunity **to align the regulatory policies** and treatment thereof in line with the broader*

*perspective of energy transition agenda. In the context of banking facilities and ToD adjustments thereof, the Commission opines that **it is important to undertake cogent reading and interpretation** of the MYT Regulations, 2024, Distribution Open Access Regulations, 2019 including amendments thereof, Grid Interactive Rooftop Renewable Energy Generation Systems, Regulations 2019 including amendments thereof and Electricity (Right of Consumers) (First Amendment) Rules, 2023."*

150. In this regard, it is reiterated that this Hon'ble Commission has committed a serious error by seeking to modify and amend express provisions of a valid and existing regulation of this Hon'ble Commission, namely Regulation 20.3 of the DOA Regulation, in the garb of "aligning the regulatory policies" and "cogent reading and interpretation", which is wholly impermissible and manifestly illegal as per settled law. The regulations and MoP Rules cited by this Hon'ble Commission in the said paragraph are all equally valid and binding, but cover mutually exclusive and separate fields. There is no inconsistency inter-se these statutory provisions, and even if there were any inconsistencies or conflicts, the same cannot be corrected in a tariff determination exercise under section 86(1)(a) of the Act.
151. It is further humbly submitted that in case this Hon'ble Commission was of the opinion that the provisions pertaining to banking need to be revised/realigned on account of the introduction of the new TOD regime, as has been noted at paragraph 7.13.91 of the MYT Order, it ought to have done so by following the due process contemplated under the Act by amending the DOA Regulations in a separate legislative exercise.
152. Having failed to do so, or invite comments on its decision to revise the banking related provisions, this Hon'ble Commission has misdirected itself and also failed to comply with fundamental and mandatory principles of natural justice, and hence the decision is erroneous on the face of the record for being contrary to clear and settled legal position. As such, it is humbly submitted that these findings of this Hon'ble Commission need to be reviewed and set aside on this ground alone.

**Hon'ble Commission's decision to amend banking provisions suffers from gross non-application of mind as it has failed to meet its own standards of consideration of relevant data**

153. Without prejudice to the above, it is further submitted that the aforesaid directions have been passed without any required scrutiny of data or analysis, as was done at the time of promulgation of DOA Regulations, where this Hon'ble Commission had duly sought to balance the interests of the open access users and distribution licensees. As such, the directions passed in respect of banking and the process followed for that fails to meet the standards set by this Hon'ble Commission itself while promulgating the DOA Regulations in 2016 and while amending the same in 2019.
154. On the basis of the aforementioned facts and submissions, it is humbly submitted that this Hon'ble Commission's findings and directions with respect to banking of electricity, including as mentioned at paragraph 7.13.94 of the MYT Order, have been passed:
- (i) in excess of jurisdiction conferred under the MoP Rules and MYT Regulations 2024;
  - (ii) are passed in violation of principles of natural justice;
  - (iii) are grossly inconsistent with and contrary to the provisions of the DOA Regulations; and
  - (iv) have been passed without any due-application of mind.

**C. Manifest illegality in grant of rebate during night hours**

155. As regards this Hon'ble Commission's decision to suo-motu grant a rebate on tariff during the night hours (00.00 hrs to 06.00 hrs), it is submitted that even the said decision has been passed in excess of the jurisdiction conferred on this Hon'ble Commission under the MoP Rules and on the basis of patently erroneous assumptions, and hence deserves to be immediately reviewed.
156. In this regard, it is reiterated that the MoP Rules as well as the MYT Regulations provide for flexibility to the licensees in respect of structuring of ToD tariff and time slots. The provisions thereunder only contemplate the quantum of solar hours, maximum limit of peak hours and minimum rebate/penalty to be applied to solar hours and peak hours, respectively. The MoP Rules do not, in any manner, require or mandate grant of any rebate for any time slots beyond the

"solar hours". As such, this Hon'ble Commission has seriously erred by granting a rebate during the aforementioned night hours.

157. It is further submitted that such a direction is not only in excess of its jurisdiction and contrary to statutory provisions, it also seriously impinges on the right of the Review Petitioner as a distribution licensee to structure its ToD tariff, as deemed appropriate, within the legislative framework of the MoP Rules, as is also provided for under this Hon'ble Commission's MYT Regulations. In this regard, it is further pertinent to highlight that this Hon'ble Commission's suo-motu decision to offer a rebate during the night hours has been passed without any consideration of the fact that it will seriously affect the Review Petitioner's plan to shift the night time load during the day hours/ solar hours, so as to balance and offset the anticipated significant solar capacity addition, which cannot be stored. By erroneously offering a rebate during the night hours, this Hon'ble Commission has left an insignificant incentive for the consumers to shift their load from the night hours to the solar hours, defeating the entire objective of ToD tariff structure.
158. It is submitted that the said approach is also inconsistent with the widely accepted approach that the objective of offering ToD tariff has changed from flattening the load curve to optimising the power purchase cost, as has also been noted in the report published by this Hon'ble Commission for study conducted on ToD tariff structure in November 2022. The relevant excerpts from the said report are set out below:

***"Objective of the Study (Chapter-2 Page-7)***

.....

*The earlier objective of ToD tariff was to flatten the load curve, so that the generation capacity to be tied-up could be optimised and the power purchase during peak hours could be minimized, to optimize the power purchase cost. **However, due to increasing contribution of power purchase from Solar and Wind Sources, the objective of ToD tariff is no longer flattening of the load curve but to fit the load curve to the available supply mix, in order to optimize the power purchase cost.***

*The time slot for which incentive has to be provided and extent of incentive to be provided would depend on the reduction in power purchase expenses due to shift in the load curve to match the supply curve to the extent possible.*

.....

Page -31 (Last para):

*...From this, it is observed that Renewable Energy (RE) Sources have been projected to be approximately 15-20% of total power purchase quantum of the State. Also, the data shows significant increase in RE absorption between 8 am to 5 pm due to solar power generation. The Commission, in its MERC RPO Regulations, 2019, has mandated at least 25% RE Energy adoption by Distribution Licensees by FY 2024-25. **Keeping this in mind, as more RE sources are made operational, the energy mix of Maharashtra would have to accommodate more RE power. In other word, Maharashtra's Load curve would have to match the Generation Curve to accommodate maximum RE (Solar and Wind) Power in the Energy Mix.***

.....

***Recommendations for ToD Tariff (Chapter-11, Page-87)***

".....

*Forward Path for Distribution Licensees in Maharashtra the various options for licensee-wise ToD tariff including scope for seasonal ToD tariff with their implications have been discussed in earlier parts of this Report. **Based on these findings, in the subsequent Tariff process, each Distribution Licensee may propose the appropriate ToD tariff for its licence area, based on the desired objectives, its cost structure, its sales mix, etc., with due justification backed up by proper data.***

..... ""

159. It is also submitted that this Hon'ble Commission has seriously erred by relying on the Market Clearing Price (**MCP**) to offer a rebate during the night hours. In this regard, it is submitted that MCP only reflects the price discovered on the power exchange. Not only is it dynamic and susceptible to serious volatility (and hence historical MCP data should not be relied upon for making assessments for a 5 year period, especially when the power markets are undergoing a significant energy transition, including on account of significant increase in RE capacity and day time solar power availability, which is effectively replacing thermal power), but it also does not reflect the state specific/licensee-specific dynamics and its applicability considering the licensee's power basket.
160. In this regard, it is pertinent to highlight that this Hon'ble Commission in the MYT Order has approved total short term purchase of 11,699 MUs for the entire Fifth

Control Period against total power purchase quantum of 9,42,537 MUs, which constitutes only 1.24% of the total procurement. This is in line with the resource adequacy plan for the distribution licensee. As such, reliance on the MCP, which can reflect only a miniscule part of the total procurement, is grossly misplaced and manifestly erroneous. Further, as stated above, this Hon'ble Commission has relied upon historical MCP data which is known to be volatile and unpredictable in nature. As such, comparing historical national trends with future-oriented state-specific plans is a manifestly erroneous approach which leads to a mismatch in planning. On the contrary, this Hon'ble Commission ought to have followed the marginal cost of supply approach proposed by the Review Petitioner, which actually and accurately reflects the impact of shifting of demand inter-se various TOD slots. Indeed, even this Hon'ble Commission at paragraph 7.13.77 has itself observed that the concept of ToD tariff is more aligned with marginal cost of power purchase. However, despite having expressly noted the same, the Hon'ble Commission has failed to apply the same and instead has relied on MCP for granting rebate in night hours. The relevant paragraph from the MYT Order is set out below for ease of reference:

**"7.13.77 Further, the concept of ToD Tariff is more aligned with marginal cost of power purchase during any hour of the day rather than Peak occurring during any other time of the day. Thus, even though Peak Demand is occurring at day-time (Solar hours), the maximum ToD Rebate is offered for consumption during Solar Hours as power purchase cost is lowest during Solar Hours....."**

161. It is further submitted that Hon'ble Commission has approved Time-of-Day (ToD) slots that differ from those originally proposed by the Petitioner. However, despite altering the duration of each ToD slot, MERC has retained the same consumption percentages as initially proposed by MSEDCL for the previous slot durations. Change in slot duration necessitates a reallocation of the consumption pattern to reflect realistic usage. The retention of the original consumption percentages in the altered slot durations distorts the load behaviour, which adversely affects tariff design.
162. It is, therefore, submitted that this Hon'ble Commission's aforementioned findings and directions in respect of banking of electricity and grant of rebate during night hours are expressly in the teeth of applicable statutory provisions and regulations of this Hon'ble Commission and hence suffer from manifest errors apparent on the face of the record. As such, the said findings and

directions deserve to be immediately reviewed and set aside by this Hon'ble Commission, failing which irreparable harm will be caused to the Review Petitioner.

**V. Manifest Error in Non-Consideration Of Assets Created Through Grants And Consumer Contribution In Determination Of O&M Expenses**

163. The Hon'ble Commission has computed the normative O&M expenses in line with the provisions of the MYT Regulations, 2024 and accordingly, the Gross Fixed Assets ("GFA") considered for computation of the normative O&M expenses is excluding the assets funded through the grants and consumer contribution. Accordingly, for deriving the normative O&M expenses, the norms considered by the Hon'ble Commission are given in table below:

***"Table 268: Details of O&M Norms considered for O&M Computation for Wire and Supply Business as per the regulations, as considered by the Commission***

<b>Particulars</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>	<b>FY 2027-28</b>	<b>FY 2028-29</b>	<b>FY 2029-30</b>
<i>O&amp;M Norms - Wires</i>					
<i>O&amp;M (% of Average GFA Wires)</i>	<i>9.66%</i>	<i>10.10%</i>	<i>10.55%</i>	<i>11.03%</i>	<i>11.52%</i>
<i>O&amp;M (Rs. Lakhs/'000 Consumers)</i>	<i>2.16</i>	<i>2.25</i>	<i>2.35</i>	<i>2.46</i>	<i>2.57</i>
<i>O&amp;M Norms – Retail Supply</i>					
<i>O&amp;M (% of Average GFA Retail Supply)</i>	<i>5.20%</i>	<i>5.44%</i>	<i>5.68%</i>	<i>5.94%</i>	<i>6.20%</i>
<i>O&amp;M (Rs. Lakhs/'000 Consumers)</i>	<i>10.44</i>	<i>10.91</i>	<i>11.4</i>	<i>11.92</i>	<i>12.45</i>

“

164. The Average GFA is allocated between Wires and Supply business in the ratio of 90% and 10%, respectively. That for computation of normative O&M for the 5th Control Period, details of Average GFA and No. of consumers considered by the Commission is as shown in the table below:

**Table 269: Average GFA and No. of Consumers for the Distribution Wire business as approved by the Commission**

<b>Particulars</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>	<b>FY 2027-28</b>	<b>FY 2028-29</b>	<b>FY 2029-30</b>
Average GFA - Wires	61,120.82	63,046.62	63,525.31	63,755.52	63,956.39
No. of Consumers ('000 consumers)	32,491.80	33,378.77	34,292.21	35,232.84	36,201.52

**Table 270: Average GFA and No. of Consumers for Retail Supply Business as approved by the Commission**

<b>Particulars</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>	<b>FY 2027-28</b>	<b>FY 2028-29</b>	<b>FY 2029-30</b>
Average GFA - Retail Supply Business	6,791.20	7,005.18	7,058.37	7,083.95	7,106.27
No. of Consumers ('000 consumers)	32,491.80	33,378.77	34,292.21	35,232.84	36,201.52

**Table 271: Total O&M Expenses (Normative + Wage revision impact for past period) for FY 2025-26 to FY 2029-30, as approved by Commission (Rs. Crore)**

<b>Particulars</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>	<b>FY 2027-28</b>	<b>FY 2028-29</b>	<b>FY 2029-30</b>
Normative O&M Expenditure for Wires Business	6,606.09	7,118.73	7,507.79	7,898.96	8,298.16
O&M Expenditure for Supply Business	3,745.29	4,022.71	4,310.23	4,620.54	4,947.68
<b>Normative O&amp;M Expenses</b>	<b>10,351.38</b>	<b>11,141.44</b>	<b>11,818.01</b>	<b>12,519.50</b>	<b>13,245.83</b>
Impact of Wage Revision arrear payment – Wires Business	215.88	0.00	0.00	0.00	0.00

<b>Particulars</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>	<b>FY 2027-28</b>	<b>FY 2028-29</b>	<b>FY 2029-30</b>
<i>Impact of Wage Revision arrear payment – Supply Business</i>	116.24	0.00	0.00	0.00	0.00
<b>Total O&amp;M Expenses</b>	<b>10,683.50</b>	<b>11,141.44</b>	<b>11,818.01</b>	<b>12,519.50</b>	<b>13,245.83</b>

**Table 272: Total O&M Expenses (Normative + Wage revision impact for past period) for FY 2025-26 to FY 2029-30, as approved by Commission (Rs. Crore)**

<b>Particulars</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>	<b>FY 2027-28</b>	<b>FY 2028-29</b>	<b>FY 2029-30</b>
<i>O&amp;M Expenditure for Wires Business</i>	6,821.97	7,118.73	7,507.79	7,898.96	8,298.16
<i>O&amp;M Expenditure for Supply Business</i>	3,861.53	4,022.71	4,310.23	4,620.54	4,947.68
<b>O&amp;M Expenses</b>	<b>10,683.50</b>	<b>11,141.44</b>	<b>11,818.01</b>	<b>12,519.50</b>	<b>13,245.83</b>

165. The Hon'ble Commission has approved normative O&M expense of Rs. 10,683.50 Crore for FY 2025-26 (incl. Wage revision impact), Rs. 11,141.44 Crore for FY 2026-27, Rs. 11,818.01 Crore for FY 2027-28, Rs. 12,519.50 Crore for FY 2028-29 and Rs. 13,245.83 Crore for FY 2029-30.
166. It is relevant to state that MSEDCL submitted that the Distribution Licensees are permitted to recover Operation and Maintenance expenses relating to Wire & Retail Supply of electricity in terms of Regulation 26, Regulation 93 and Regulation 103 of MYT Regulations, 2024, which are reproduced below:-

**"26. Consumer Contribution, Deposit Work, Grant and Capital Subsidy**

*26.1 The expenses on the following categories of works carried out by the Generating Company or Licensee or MSLDC or STU shall be treated as specified in Regulation 26.2:*

*(a) Works undertaken from funds, partly or fully, provided by the users, which are in the nature of deposit works or consumer contribution works;*

***(b) Capital works undertaken with grants or capital subsidy received from the State and Central Governments;***

***(c) Other works undertaken with funding received without any obligation of repayment and with no interest costs.***

*(d) Capital works undertaken by the Licensee by utilisation of Contingency Reserve.*

***26.2 The expenses on such capital works shall be treated as follows:-***

***(a) normative O&M expenses as specified in these Regulations shall be allowed***

*(b) the debt:equity ratio, shall be considered in accordance with Regulation 27, after deducting the amount of such financial support received;*

*(c) provisions related to depreciation, as specified in Regulation 28, shall not be applicable to the extent of such financial support received;*

*(d) provisions related to return on equity, as specified in Regulation 29 shall not be applicable to the extent of such financial support received;*

*(e) provisions related to interest on loan capital, as specified in Regulation 30 shall not be applicable to the extent of such financial support received.*

### ***93 Operation and Maintenance Expenses***

*93.1 The Distribution Licensees shall be permitted to recover Operation and Maintenance expenses relating to the Distribution Wires Business as specified in the norms below for each year of the Control Period:*

*Explanation: For the purpose of applying normative O&M expenses with respect to Gross Fixed Assets (GFA) growth under these Regulation, the average GFA pertaining to Distribution Wires Business (in INR Crore) shall be multiplied by the O&M Norms in terms of "percentage of Average GFA", for the respective years.*

*93.2 For applying normative O&M expenses with respect to Consumer's growth, the O&M Norms in terms of "INR Lakhs/'000 Consumers" or "INR Lakhs/'00 Consumers" (in case of Deemed Distribution Licensees) shall be multiplied by the closing total Wheeling Consumers inclusive of full Open Access Consumers, if any, of the Distribution Wires Business, during the respective financial year.*

*Provided that the Partial Open Access consumers are embedded within the Wheeling Consumers of the Distribution Wires Business, hence, no separate addition of such Partial Open Access consumers will be allowed to avoid double accounting:*

*Provided further that the Distribution Licensee shall submit the details of its consumer base having the break-up of its direct consumers, Partial Open Access consumers and Full Open Access consumers for the respective years at the time of filing MYT Petition for Distribution Wires Business.*

<b>MSEDCL</b>	<b>FY 26</b>	<b>FY 27</b>	<b>FY 28</b>	<b>FY 29</b>	<b>FY 30</b>
<i>O&amp;M (% of Average GFA - Wires)</i>	9.66%	10.10%	10.55%	11.03%	11.52%
<i>O&amp;M (INR Lakhs/'000 Consumers)</i>	2.16	2.25	2.35	2.46	2.57

### **103 Operation and Maintenance Expenses**

*103.1 The Distribution Licensees shall be permitted to recover Operation and Maintenance expenses relating to the Retail Supply of electricity as specified in the norms below for each year of the Control Period:*

*Explanation: For the purpose of applying normative O&M expenses with respect to Gross Fixed Assets (GFA) growth under these Regulation, the average*

*GFA pertaining to Retail Supply Business (in INR Crore) shall be multiplied by the O&M Norms in terms of "percentage of Average GFA", for the respective years.*

*103.2 For applying normative O&M expenses with respect to Consumer's growth, the O&M Norms in terms of "INR Lakhs/'000 Consumers" or "INR Lakhs/'00 Consumers" (in case of Deemed Distribution Licensees) shall be multiplied by the closing total Retail Supply Consumers, if any, of the Retail Supply Business, for the respective financial year*

*Provided that the Partial Open Access consumers are embedded within the Retail Supply Consumers of the Retail Supply Business, hence, no separate addition of such Partial Open Access consumers will be allowed to avoid double accounting:*

*Provided further that the Distribution Licensee shall submit the details of its consumer base having the break-up of its direct consumers and Partial Open Access consumers for the respective years at the time of filing MYT Petition for its Retail Supply Business.*

<b>MSEDCL</b>	<b>FY 26</b>	<b>FY 27</b>	<b>FY 28</b>	<b>FY 29</b>	<b>FY 30</b>
<i>O&amp;M (% of Average GFA - Wires)</i>	5.20%	5.44%	5.68%	5.94%	6.20%
<i>O&amp;M (INR Lakhs/'000 Consumers)</i>	10.44	10.91	11.4	11.92	12.45

167. As per Regulation 26.2 (a), normative **O&M Expenses are allowed on the Capital Works undertaken with Capital Grant or Subsidy or Consumer Contribution**. For the calculation of O&M Expenses for the control period, GFA applicable for the calculation of depreciation is to be considered. However, the Hon'ble Commission has not considered the Gross Value of assets created out of consumer contribution/ grant/ subsidy. The Gross Fixed Asset and Net Impact on O&M Expenses are as below:

<b>O&amp;M Expenses Net Impact ( Rs. In Crores)</b>					
<b>FY</b>	<b>Average GFA without considering Consumer contribution &amp; Grants</b>	<b>O&amp;M Expenses approved by Commission</b>	<b>Average GFA considering Consumer contribution &amp; Grants</b>	<b>O&amp;M Expenses per Calculation</b>	<b>Net Impact</b>
2025-26	67,912.04	10,683.5(including wage revision of Rs.332.12 crores)	79,268.58	<b>11,729.89</b> (including wage revision of Rs.332.12 crores)	1,046.39
2026-27	70,051.81	11,141.44	85,414.35	12,621.46	1,480.03
2027-28	70,583.69	11,818.03	87,678.87	13,538.32	1,720.29
2028-29	70,839.48	12,519.50	89,141.48	14,445.06	1,925.55
2029-30	71,062.67	13,245.83	90,511.28	15,382.85	2,137.01
<b>Total O&amp;M Expenses Net Impact</b>					<b>8,309.27</b>

168. Thus, in computing the normative O&M expenses as per the MYT Regulations, 2024, the Hon'ble Commission has erroneously considered the GFA net of assets created out of grants and consumer contributions, resulting in an error apparent on the face of the record.

169. It is submitted that Hon'ble Commission has erred in not-considering the specific mandated of the Regulation and therefore the rejection of the O&M expenses is erroneous and must be corrected.
170. It is a settled principle that once regulations are notified by a SERC under Section 181 of the Electricity Act such regulations have the force of law. The Commission, while exercising any quasi-judicial, administrative, or legislative functions, is bound by its own regulations. Therefore, any deviation, modification, or disregard of specific regulatory provisions without due amendment through the prescribed process would be ultra vires and liable to be set aside. That Section 181 of the Electricity Act empowers SERCs to make regulations consistent with the Electricity Act and rules framed thereunder, where Section 61 and Section 62 require tariff determination to be done in accordance with the regulations framed thereunder. Thus, the regulations made further to Section 181 of the Electricity Act are binding on the Hon'ble Commission itself and on all stakeholders. The Hon'ble Supreme Court in the case of ***PTC India Ltd. v. Central Electricity Regulatory Commission (2010) 4 SCC 603*** has stated that once regulations are made under Section 178 (or Section 181 for SERCs), the Central Commission (or State Commission) cannot act contrary to such regulations. The regulations have statutory force. The Hon'ble Supreme Court categorically held that any executive or quasi-judicial action contrary to framed regulations would be illegal and unsustainable. Further, in the case of ***Tata Power Company Ltd. v. MERC and Ors., Appeal No. 84 of 2006***, it was observed by the Hon'ble APTEL that the this Hon'ble Commission was bound by the terms of its own regulations and cannot take actions inconsistent with them unless the regulations are first amended according to law. The Hon'ble APTEL further emphasized that even while conducting tariff determination, this Hon'ble Commission must strictly adhere to the procedure, criteria, and conditions set out in its notified regulations. In the case of ***BSES Ltd. v. Tata Power Co. Ltd. & Others (2004) 1 SCC 195***, it has been observed that, a regulator must act within the four corners of its regulatory framework; deviation or additions outside the statutory scheme are impermissible.
171. Based on the calculated impact (considering approved Capitalization in the MYT Order) on O & M expenses without considering CC and grants from FY 2025-26 to FY 2029-30, it is requested to give the similar treatment as a consequential impact of the revised GFA based on the review filed for consideration of disallowed Capitalization in this Petition, while calculating O & M expenses.

172. It is further requested and submitted that the Hon'ble Commission ought to consider granting the consequential impact of revision in Capitalization to Interest on Working Capital ("**IoWC**") considering GFA including consumer contributions and grants.

**VI. Disallowance in Interest on Working Capital.**

173. Considering the submissions made in respect of error in non-consideration of assets created through grants and consumer contributions in determination of O&M Expenses, it is submitted that the Hon'ble Commission must consider granting the consequential impact of revision in capitalization to IoWC.
174. The Hon'ble Commission has approved IoWC of Rs. 135.60 Crore for FY 2025-26, Rs. 128.88 Crore for FY 2026-27, Rs. 115.43 Crore for FY 2027-28, Rs. 102.55 Crore for FY 2028-29 and Rs. 88.60 Crore for FY 2029-30. The relevant extract of the order is reproduced below. The IoWC approved for the Wires and Supply Business from FY 2025-26 to FY 2029-30 is shown in the following tables.

***Table 287: IoWC and Security Deposits for Wires Business from FY 2025-26 to FY 2029- 30 as approved by Commission (Rs. Crore)***

<b>Particulars</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>	<b>FY 2027-28</b>	<b>FY 2028-29</b>	<b>FY 2029-30</b>
<i>O&amp;M expenses for a month</i>	578.69	603.49	640.14	678.14	717.48
<i>Maintenance Spares at 1% of Opening GFA</i>	595.47	626.94	633.99	636.52	638.59
<i>One and half months equivalent of the expected revenue from charges for use of Distribution Wires</i>	1,607.71	1,636.56	1,628.68	1,645.83	1,669.95
<i>Less: Amount held as Security Deposit from Distribution System Users</i>	(1,490.48)	(1,639.53)	(1,803.48)	(1,983.83)	(2,182.22)
<b>Total Working Capital Requirement</b>	1,291.39	1,227.47	1,099.33	976.65	843.81

<b>Particulars</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>	<b>FY 2027-28</b>	<b>FY 2028-29</b>	<b>FY 2029-30</b>
<b>Computation of Working Capital Interest</b>					
<i>Interest Rate (%) - SBI Base Rate +150 basis points</i>	10.50%	10.50%	10.50%	10.50%	10.50%
<b>Interest on Working Capital</b>	<b>135.60</b>	<b>128.88</b>	<b>115.43</b>	<b>102.55</b>	<b>88.60</b>
<b>Interest on Security Deposit</b>					
<i>Interest Rate (%) - Bank Rate</i>	6.50%	6.50%	6.50%	6.50%	6.50%
<b>Interest on Security Deposit</b>	<b>96.88</b>	<b>106.57</b>	<b>117.23</b>	<b>128.95</b>	<b>141.84</b>

**Table 288: IoWC and Security Deposits for Supply Business from FY 2025-26 to FY 2029-30 as approved by Commission (Rs. Crore)**

<b>Particulars</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>	<b>FY 2027-28</b>	<b>FY 2028-29</b>	<b>FY 2029-30</b>
<i>O&amp;M expenses for a month</i>	311.60	324.96	344.69	365.15	386.34
<i>Maintenance Spares at 1% of Opening GFA</i>	0.00	0.00	0.00	0.00	0.00

<b>Particulars</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>	<b>FY 2027-28</b>	<b>FY 2028-29</b>	<b>FY 2029-30</b>
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<i>One and half months equivalent of the expected revenue from sale of electricity including revenue from CSS and Additional Surcharge</i>	15,934.99	16,768.99	17,742.41	18,509.48	19,405.13
<i>Less: Amount held as security deposit</i>	(13,205.04)	(14,755.78)	(16,231.36)	(17,854.49)	(19,639.94)
<i>Less: One month equivalent of cost of power purchase, transmission charges and MSLDC Charges</i>	(7,836.55)	(8,114.44)	(8,637.81)	(9,180.43)	(9,708.74)
<b>Total Working Capital Requirement</b>	(4,795.00)	(5,776.27)	(6,782.06)	(8,160.29)	(9,557.22)
<b>Computation of Working Capital Interest</b>					
<i>Interest Rate (%) - SBI Base Rate + 150 Basis points</i>	10.50%	10.50%	10.50%	10.50%	10.50%
<b>Interest on Working Capital</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Interest on Security Deposit</b>					
<i>Interest Rate (%) - Bank Rate</i>	6.50%	6.50%	6.50%	6.50%	6.50%
<b>Interest on Security Deposit</b>	<b>858.33</b>	<b>959.13</b>	<b>1,055.04</b>	<b>1,160.54</b>	<b>1,276.60</b>

**Table 289: IoWC and Interest on Security Deposit as approved by Commission from FY 2025-26 to FY 2029-30 (Wires + Supply)**  
(Rs. Crore)

<b>Particulars</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>	<b>FY 2027-28</b>	<b>FY 2028-29</b>	<b>FY 2029-30</b>
<i>IoWC (Wires + Supply)</i>	135.60	128.88	115.43	102.55	88.60
<i>Interest on CSD (Wires + Supply)</i>	955.21	1,065.70	1,172.26	1,289.49	1,418.44

"

175. It is apposite to state that Regulation 32.3 and Regulation 32.4 of the MYT Regulations, 2024 provide for IOWC for Wires Business and Retail Supply Business of Electricity. The relevant extract is reproduced below:

*"32. Interest on Working Capital:*

**32.3 Distribution Wires Business**

*(a) The working capital requirement of the Distribution Wires Business shall cover:*

- (i) Normative Operation and maintenance expenses for one month;*
- (ii) Maintenance spares at one per cent of the opening Gross Fixed Assets for the Year; and*
- (iii) One and half month equivalent of the expected revenue from charges for use of Distribution Wires at the Tariff approved by the Commission for ensuing year(s)*

*minus*

- (iv) Amount held as security deposits in cash from Distribution System Users:*

*Provided further that for the purpose of Truing-up for any year, the working capital requirement shall be re-computed on the basis of the actual Revenue from sale of electricity excluding incentive, if any, and other components of working capital approved by the Commission in the Truing-up before sharing of gains and losses;*

**32.4 Retail Supply of Electricity**

*(a) The working capital requirement of the Retail Supply Business shall cover: (i) Normative operation and maintenance expenses for one month;*

*(ii) Maintenance spares at one per cent of the opening Gross Fixed Assets for the Year; and*

*(iii) One and half months equivalent of the expected revenue from sale of electricity at the Tariff approved by the Commission for ensuing year/s, and including revenue from cross-subsidy surcharge and additional surcharge, if any;*

*minus*

*(iv) Amount held as security deposits in cash from retail supply consumers;*

*(v) One month equivalent of cost of power purchased, including the Transmission Charges, MSLDC*

*Provided that in case of power procurement from own Generating Stations of the Retail Supply Business, no amount shall be reduced from working capital requirement towards payables, to the extent of supply of power by the Generation Business to the Retail Supply Business, in the computation of working capital in accordance with these Regulations:*

*Provided further that for the purpose of Truing-up for any year, the working capital requirement shall be re-computed on the basis of actual Revenue from sale of electricity excluding incentive, if any, and other components of working capital approved by the Commission in the Truing-up before sharing of gains and losses:"*

176. Thus, it is as per Regulations 32.3 & 32.4 of the MYT Regulations 2024 that the normative interest on working capital for the control period is calculated. The working capital requirement shall include maintenance spares at 1% of the opening GFA for the year.
177. The Hon'ble Commission has considered IoWC @ 1% on opening GFA of Wire Business only and opening GFA is considered net of Consumer Contribution & Grant. Further the Hon'ble Commission has considered zero maintenance spares for supply business, which is an error apparent on record.
178. It is humbly submitted that because of non-consideration of Consumer Contributions and Grants in the Opening GFA for the purposes of calculating 1% of maintenance spares, MSEDCL will be deprived of proportionate of legitimate working Capital to the extent of assets commissioned with the help of Consumer Contributions and Grants. As such, it is humbly submitted that a similar consequential impact of revision in capitalization (as prayed for in this Review Petition) be granted in the normative IoWC calculation, considering GFA including Consumer Contribution and Grants, as the non-consideration thereof has been clearly demonstrated to be an error apparent on the face of the record.

**VII. Manifest Error In Disallowing The Additional ROE For FY 2022-23 and FY 2023-24 For The Distribution Wires Business**

179. The Review Petitioner, in the MYT Petition, sought Return on Equity ("RoE") for the FY 2022-23 and FY 2023-24 for both its Wire Business and Supply Business.

180. That the claim for RoE in the Wires Business and Supply Business was based on Regulation 29 of the MERC (Multi Year Tariff) Regulations 2019, ("**MYT Regulations, 2019**"), which provides for RoE for distribution licensees.
181. Specifically, as per Regulation 29.8 of MYT Regulation 2019, an additional RoE shall be allowed on wires availability at the time of True-up. Regulation 29.8 reads as under:

*"29.8 In case of Distribution Wires Business, an additional rate of Return on Equity shall be allowed on Wires Availability at the time of true-up as per the following schedule:*

- a) The target **Wires Availability for recovery of base rate of return on equity shall be 95 percent** for MSEDCL and 98% for other Distribution Licensees;*
- b) For every 0.50% over-achievement in Wires Availability, rate of return shall be increased by 0.50%, subject to ceiling of additional rate of Return on Equity of 1.50%;*
- c) **Wires Availability shall be computed in accordance with the following formula:***

$$\text{Wires Availability} = (1 - (\text{SAIDI} / 8760)) \times 100:$$

*Provided that the System Average Interruption Duration Index **(SAIDI) shall be calculated in accordance with the definition specified in Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014,** as amended from time to time.*

182. Further, Regulation 29.9 provides for additional RoE for the Supply Business. Regulation 29.9 of the MYT Regulation, 2019 reads as under:

*"29.9 In case of Retail Supply Business, an additional rate of Return on Equity shall be allowed at the time of true-up, as per the following schedule:*

- (a) If the percentage of assessed bills is less than 1.5% of the total number of bills issued during the year, then rate of return shall be increased by 1%;*
- (b) If the percentage of assessed bills is more than 1.5% of the total number of bills issued during the year, for every 0.5% reduction in the percentage of assessed billing, rate of return shall be increased by 0.25%, subject to ceiling of additional rate of Return on Equity of 1.00%.*

*(c) If overall collection efficiency for the year is above 99 %, then rate of return shall be increased by 1%;*

*(d) If overall collection efficiency for the year is below 99 %, for every 0.5% improvement in the overall collection efficiency, rate of return shall be increased by 0.25%, subject to ceiling of additional rate of Return on Equity of 1.00%."*

183. That the Review Petitioner stated before this Hon'ble Commission and submitted the following RoEs for the Wires Business and the Supply Business as follows (see Tables 103 to 106 of the MYT Order):

(a) For the FY 2022-23:

- i. RoE for the Wires Business was calculated at INR 1,743.54 Crore
- ii. RoE for the Supply Business was calculated at INR 217.60 Crore

(b) For the FY 2023-24:

- i. RoE for the Wires Business was calculated INR 1, 826.67 Crore
- ii. RoE for the Supply Business was calculated at INR 227.83 Crore

184. Basis the RoE, the Review Petitioner sought Addition RoE as under:

(a) For FY 2022-23:

- i. Additional RoE of INR 186.81 Crores for the Wires Business basis a wire availability of 99.98%
- ii. Additional RoE of INR *zero* for the Supply Business

(b) For FY 2023-24

- i. Additional RoE of INR 195.71 Crores for the Wires Business basis a wire availability of 99.99%
- ii. Additional RoE of INR 12.49 Crores for the Supply Business

185. In this regard, it may be noted that as per MYT Regulations 2019, additional RoE shall be approved at the time of truing up and it shall be equivalent to 1.5% for Distribution Wire Business on achieving wire availability of 95% (for the Review Petitioner).

186. That the Hon'ble Commission after a prudence check approved the additional RoE for the Supply Business, but erroneously, based on considerations that are

beyond the provisions of the MYT Regulation 2019 rejected the claim of Additional RoE for the Wires Business.

187. The Hon'ble Commission in this regard, notes as under:

- "3.24.10 *MSEDCL has claimed wire availability of 99.98% and 99.99% for FY 2022-23 and FY 2023-24, respectively. It is to be noted that, although MSEDCL has claimed wire availability of 99.98% and 99.99% for FY 2022-23 and FY 2023-24, **several comments and objections were received during the Public Consultation process regarding the power quality, quality of supply across the State, performance on reliability indices and availability of power supply.** It is important to ascertain performance for such important performance parameters through proper measurement of interruptions and devise procedure for automated recording of the supply availability and reliability indices thereof.*
- 3.24.11 ***With deployment of smart meters, such measurements and reporting would be readily available for verification of supply availability claims and entitlement of additional RoE thereon.** Regarding status of smart meters, MSEDCL submitted that MSEDCL has installed smart meters on 24,145 feeders out of total 27,826 feeder and smart metering of remaining 3,681 feeders will be completed by December 2024. The Commission has directed MSEDCL to complete smart metering of all the feeders at the earliest and significant capitalization is approved for it. Still, smart metering of 3,681 feeders is pending.*
- 3.24.12 ***Until such mechanism is put in place, the Commission has not considered the claim of additional RoE for true up years presently.** However, the Commission hereby directs MSEDCL to put in place a protocol for automated measurement and reporting of supply availability across various circles/divisions and submit such records along with next tariff review exercise. **Accordingly, the additional RoE of Wire Business is not approved by the Commission for FY 2022-23 and FY 2023-24.**"*

188. That the Hon'ble Commission has erroneously linked the Review Petitioner's 'entitlement' to Additional RoE in the Wires Business to the installation of smart meters on all feeders, which is a complete contradiction to the methodology provided for computation of reliability indices of a distribution company. It is a settled position in law that once regulations have been framed under Section 181 of the Electricity Act such regulations are binding on the State Commission itself.

This Hon'ble Commission cannot impose any additional procedural or substantive requirements beyond the four corners of these regulations while exercising its tariff determination powers under Section 62. In this regard, reference is made to the decision of the Hon'ble APTEL in ***JSW v/s MERC***, being *Appeal No. 173 of 2009* wherein the Hon'ble APTEL has noted that imposing fresh or additional data requirements unless prescribed in regulations, is beyond the powers of the State Commission.

189. Moreover, the Hon'ble Commission has, without conducting a proper prudence check, merely relied on comments/objections received during the public consultation process on the quality of supply, which was without any technical basis or data, and not a factor for consideration in terms of the regulations.
190. In this regard, it is stated that the reliability indices in a distribution company are metrics used to evaluate the dependability of the electrical power distribution system. The Distribution Licensee shall calculate the reliability of its distribution system on the basis of number and duration of sustained interruptions in a reporting period, using the following indices:
  - i. System Average Interruption Frequency Index ("**SAIFI**");
  - ii. System Average Interruption Duration Index ("**SAIDI**"); and
  - iii. Customer Average Interruption Duration Index ("**CAIDI**")
191. As per the Statement of Purpose ("**SoP**") of the MYT Regulations 2019, a list of outages has been specified that are not to be considered while computing the reliability indices, as such events are beyond the control of the Review Petitioner. However, consumers continue to experience these interruptions, which adversely affect their service experience and cause grievances, often expressed during public hearings, even though these interruptions are excluded from the computation. Accordingly, while calculating the indices of SAIFI, SAIDI, and CAIDI, the following types of interruptions are to be excluded:
  - i. Scheduled outages;
  - ii. Momentary outages of a duration not more than five minutes;
  - iii. Outages due to the failure of the grid;
  - iv. Outages due to the reasons such as force majeure events, generation failure or transmission failure, outages initiated by NLDC, RLDC or SLDC, occurrence beyond control of Distribution Licensees.

192. It is submitted that the Hon'ble Commission plays a vital role in tariff determination, especially while conducting the prudence check for the claims made by the distribution licensee, basis the indices. The data relating to SAIFI/SAIDI and CAIDI is available on the website of the Review Petitioner, which then becomes the basis for seeking reliability as claimed by the Review Petitioner in the MYT Petition. The role of the Hon'ble Commission is therefore to determine all factors of tariff based on regulations and procedures framed under the Electricity Act while considering public comments/objections. However, a blanket rejection of the technical data/assessment or reliability metrics based solely on public objections is erroneous and without any reason/basis in regulation and the Electricity Act. Any rejection by the Hon'ble Commission merely on consumer feedback is in complete antithesis to the regulatory methodologies provided for in the underlying regulations. In this regard, attention is drawn to the regulations which specifically mandate and require a method for computation of reliability indices, i.e. SAIFI, SAIDI and CAIDI while specifically stating what must and must not be considered. Hence, indices submitted cannot be rejected completely merely based on public objections. The Hon'ble Commission could have sought more clarifications on the indices (if necessary) rather than rejecting the entire request for additional RoE in the Wires Business based on public objections. Hence, the said rejection is erroneous on the face of it and must be corrected immediately.
193. In this regard, it is also stated that the Hon'ble Commission has erroneously placed reliance on the 'requirement of smart meters' or rather the absence of the same to be a reason for non-consideration of the reliability indices, when the same has not been provided for in the regulations/provisions/methods for preparation of the said indices. Here, it is pertinent to highlight that this Hon'ble Commission's approach to add extraneous conditions for grant of additional ROE, namely the requirement of smart meters, at the true-up stage is not only in excess of the provisions of Regulation 29.9, but is also against settled principles of tariff determination which prohibit any change in methodology at the true-up stage, as that would tantamount to changing the rules of the game after it has been played. In this regard, reference may be had to a judgment of the Hon'ble Supreme Court in *BSES Rajdhani Power Ltd. v. Delhi Electricity Regulatory Commission*, Civil Appeal No. 4324 of 2015, where the Hon'ble Supreme Court was pleased to hold as under:

"51. *As noticed above, a tariff order is quasi judicial in nature which becomes final and binding on the parties unless it is amended or revoked under Section 64(6) or set aside by the Appellate Authority. **Apart from this, we are also of the view that at the stage of***

**'truing up', the DERC cannot change the rules/methodology used in the initial tariff determination by changing the basic principles, premises and issues involved in the initial projection of ARR.**

52. 'Truing up' has been held by APTEL in *SLDC v. GERC* to mean the adjustment of actual amounts incurred by the Licensee against the estimated/projected amounts determined under the ARR. Concept of 'truing up' has been dealt with in much detail by the APTEL in its judgment in *NDPL v. DERC* wherein it was held as under: 4 2015 SCC Online APTEL 50 [Para. 17] 5 2007 ELR (APTEL) 193:

"60. Before parting with the judgment we are constrained to remark that the Commission has not properly understood the concept of truing up. While considering the Tariff Petition of the utility the Commission has to reasonably anticipate the Revenue required by a particular utility and such assessment should be based on practical considerations. It cannot take arbitrary figures of increase over the previous period's expenditure by an arbitrarily chosen percentage of 4 per cent or 20 per cent and leave the actual adjustments to be done in the truing up exercise. The truing up exercise is mentioned to fill the gap between the actual expenses at the end of the year and anticipated expenses in the beginning of the year. **When the utility gives its own statement of anticipated expenditure, the Commission has to accept the same except where the Commission has reasons to differ with the statement of the utility and records reasons thereof or where the Commission is able to suggest some method of reducing the anticipated expenditure. This process of restricting the claim of the utility by not allowing the reasonably anticipated expenditure and offering to do the needful in the truing up exercise is not prudence.**"

53. This view has been consistently followed by the APTEL in its subsequent judgments and we are in complete agreement with the above view of the APTEL. In our opinion, 'truing up' stage is not an opportunity for the DERC to rethink de novo on the basic principles, premises and issues involved in the initial projections of the revenue requirement of the licensee. 'Truing up' exercise cannot be done to retrospectively change the methodology/principles of tariff determination and reopening the original tariff determination order

*thereby setting the tariff determination process to a naught at 'true up' stage."*

194. It is submitted that the Hon'ble Commission, in terms of the MYT Regulations, is required to consider public comments/inputs. However, before considering the said comments as the basis for rejecting the additional RoE, the Hon'ble Commission must do a prudence check of the indices submitted by the Review Petitioner and only in case of any anomaly in the indices submitted, or in case of a non-compliance/deviation from the underlying regulation and methodology must the Hon'ble Commission seek further technical inputs or give further directions, etc. Hence, a blanket rejection is erroneously done by the Hon'ble Commission in the instant issue.
195. It is submitted that the MYT Regulations mandate calling for suggestions and objections from the public. It is relevant to note that while the regulations provide for stakeholder consultation and require the Hon'ble Commission to consider the suggestions/objections received from the public on the petition, the same cannot be used by the Hon'ble Commission as a guise to alter the indices submitted by the Review Petitioner in terms of the Regulations, specifically when the indices have been prepared using figures available on the website of the distribution licensee and is, therefore, largely system-generated.
196. The requirement is to 'consider' the suggestions/objections received from the public so as to ensure a comprehensive prudence assessment by the Hon'ble Commission. The Regulations nowhere dictates that the Hon'ble Commission must necessarily accept such suggestions/objections and base its assessment on the same in complete disregard to the data submitted by the distribution licensee.
197. Under the Electricity Act the Hon'ble Commission is empowered to determine tariffs under Section 62 and conduct a prudence check as part of its regulatory functions. This check allows the Hon'ble Commission to ensure that projections and costs submitted by the distribution licensee are reasonable, justified, and in the interest of consumers. While Section 64 (3) of the Electricity Act mandates public participation, this cannot be construed to authorize the Hon'ble Commission to substitute or modify factual or technical data based on oral or anecdotal objections unless such objections are supported by expert evidence, verified alternative data and/or cross-examination or rebuttal of the licensee's data.

198. That Review Petitioner had placed before the Hon'ble Commission indices as required by the Regulations, which are then essential for the Hon'ble Commission to carry out prudence check against the remarks/objections received from the public consultation process. As such, for better understanding and in furtherance of the submissions herein, it is pertinent to refer to the definition of "prudence check" to understand the scope of prudence check that can/cannot be undertaken by the Hon'ble Commission.
199. That the conduct of the Hon'ble Commission is contrary to Section 61 of Act 2003 as Section 61(d) mandates that tariff determination is carried out by safeguarding of consumers interest and at the same time recovery of the cost of electricity in a reasonable manner, however, the Hon'ble Commission without a proper prudence check and ignoring the factual position rejected the entire submission of Additional RoE for the Wires Business, which is in stark contrast to the role of the Hon'ble Commission while conducting a prudence check.
200. The Hon'ble Commission must apply Prudence Check while allowing or disallowing the submissions of the Review Petitioner and where there is no basis with the Hon'ble Commission to not agree with the scientific/actual cogent data/indices submitted by the Review Petitioner, it must attempt to either have the same validated by comparing it with other similarly placed project rather than rejecting the same on mere comments/objections from the public or by suggesting non-compliance with a requirement not even part of the regulation (such as smart meters). In this regard, reference is made to the decision in ***M/s. Om Hydro Power Ltd. v/s Himachal Pradesh Electricity Regulatory Commission***, Appeal No. 301 of 2016 & IA No. 260 of 2024 dated 16.12.2024 where the Hon'ble APTEL noted as under, in respect of an expenditure disallowed by the state commission:

"134. At the first instance for regulatory accounting, the auditor statement is to be relied upon and only in case of discrepancy or valid reasons, a detailed analysis can be carried out, however, the role of prudence check is not to make **presumptive conclusions**."

**137. It is a settled principle that if the law provides a methodology to do a thing, it cannot be done in any other manner.**

**138. The State Commission is bound by its Tariff Regulations, none of the State Commission's Regulations provides for any other alternative to the prudent analysis, inter-alia, there is no alternative methodology mandates that the Commission can**

**Suo motto compute** the capital cost by escalating the DPR cost based on WPI.

**139. Therefore, once no such methodology is mentioned in the Tariff Regulations, the State Commission has to carry out the prudence check per the Regulations and should not invent any new methodology to predict or arrive at cost based on its presumption including the sequence and timing of work orders."**

201. The Hon'ble Commission, during a prudence assessment has to take into account all such factors and considerations that are relevant for arriving at a reasoned decision that not only safeguards consumer interest but at the same time ensures recovery of the cost of electricity in a reasonable manner, which is a cardinal principle of tariff determination under Section 61 of the Electricity Act. Section 61 of the Electricity Act specifically states that the commission, while determining tariff, shall be *inter alia* guided by the following:
- (a) That the generation, transmission, distribution and supply of electricity are conducted on commercial principles;
  - (b) the factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments;
  - (c) **safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner;**
  - (d) the principles rewarding efficiency in performance;
  - (e) multi-year tariff principles;
  - (f) the National Electricity Policy and tariff policy
202. It is submitted that balancing consumer protection with the legitimate recovery of electricity costs is a fundamental principle enshrined in the Electricity Act, particularly under Section 61(d). This section mandates that tariffs should "safeguard consumer interests and at the same time, recover the cost of electricity in a reasonable manner." The Hon'ble APTEL has emphasized that while determining tariffs, commissions must maintain a balance between affordable power for consumers and the financial viability of power producers (*Appeal No. 381 of 2018*). Hence, it is to underscore that while consumer interests are paramount however they must be balanced against the necessity for utilities to recover reasonable costs to ensure the sustainability of the electricity sector. Hence, , safeguarding consumer interest cannot be the only criteria for determining tariff and therefore stakeholder consultation cannot be used as a basis to modify the data/projections submitted by the Review Petitioner.

203. In light of the foregoing submissions, the Review Petitioner seeks from the Hon'ble Commission correction of the erroneous rejection of the additional RoE for Wires Business. The Review Petitioner, therefore, seeks a correction in appropriate consideration of the additional RoE of INR 186.81 Crores for the Wires Business basis a wire availability of 99.98% for the FY 2022-23 and Additional RoE of INR 195.71 Crores for the Wires Business basis a wire availability of 99.99% for the FY 2023-24.

**VIII. Manifestly Erroneous and arbitrary change in classification of the hotel industry & Undue benefit to specific EHV consumer of MSEDCL**

204. It is submitted that this Hon'ble Commission has erred in passing on benefits to certain specific categories erroneously,
- a. Erroneous interpretation of the GoM 'Tourism Policy of 2024' for re-categorization of the Hotel Industry.
  - b. Undue benefit on account of wheeling charges due to non-establishment of EHV network by MSETCL

**A. Erroneous re-categorization of the category of Hotels with Lodging facility from Commercial to Industrial Tariff Category**

205. The Hon'ble Commission has erroneously changed the category of 'Hotels with Lodging facility' from Commercial to Industrial Tariff Category, in a purported attempt to allegedly promote tourism.
206. Additionally, the Hon'ble Commission has also incorrectly provided a discount in energy charge of 25 paise/unit, 50 paise/unit and 75 paise/unit based on the city in which Hotels/Resorts/Guesthouse with lodging facility is located taking into consideration the classification of tourism units/zones in Maharashtra specified in the Tourism Policy of Maharashtra 2024.
207. While recognizing the sacrosanct principle of tariff design that undue preference cannot be given to a particular consumer class, the Hon'ble Commission has, in circumvention of such principal, changed the category of hotels/resorts/guest house with lodging facility from Commercial to Industrial Tariff Category. The

Hon'ble Commission has purportedly based its decision on the recent 'Tourism Policy of Maharashtra 2024', issued by the Government of Maharashtra and apparently to address the concerns of the "consumers and stakeholders" raised through the consultation process. In this regard, it is submitted that the Hon'ble Commission's reliance on the 'Tourism Policy of Maharashtra 2024' is rather misplaced, incorrect and legally not tenable. Rather, by the act of re-categorization, the Hon'ble Commission has overstepped its role as a regulatory and given a benefit to a category of consumers that has not even been envisaged in the policy, and that too at the cost of the distribution licensee (the Review Petitioner).

### **Tourism Policy of Maharashtra 2024**

208. The Government of Maharashtra, Tourism Department vide Government Resolution No. TDS- 2022 /09 / CR No 542 / Tourism - 4 issued the Tourism Policy 2024, annexed herewith as **ANNEXURE P-13**. The Tourism Policy 2024 based on inputs from various stakeholders identifies 23 key fiscal and 13 non-fiscal parameters across the tourism polices, which in provide for "Electricity & Power Subsidy" as a Fiscal incentive. In furtherance of the same, in Paragraph 14.2.2 of the Tourism Policy 2024, under the title of "*Other Fiscal incentives to Large, Mega and Ultra Mega tourism projects*" the following fiscal benefits have been provided:

#### **14.4.2. Other Fiscal incentives to Large, Mega and Ultra Mega tourism projects**

	A	B	C	STZ/STD	Ultra Mega project unit
Eligibility Period (in years)	5	7	10	10	15
SGST reimbursement	50% of SGST on net paid	75% of SGST on net paid	100% of SGST on net paid	100% of SGST on net paid	100% of SGST on Gross payable
Electricity duty Exemption	50%	75%	100%	100%	100%
Electricity Tariff fund (Difference between commercial tariff and industrial tariff)	50%	75%	100%	100%	100%

209. In respect of "electricity and power subsidy" two specific fiscal benefits have been provided, i.e. "Electricity Duty Exemption" and "Electricity Tariff Refund (Difference between Commercial Tariff and Industrial Tariff)".

210. It has been further provided in Paragraph 14.4.4 of the policy titled, 'Fiscal incentives for other Tourism Units', it is stated that following are the other tourism units eligible for financial incentives:

- (a) Adventure Tourism Units (Air, Land & Water based units)
- (b) Agro Tourism/ Rural Tourism/Eco Tourism
- (c) Beach Shacks
- (d) Caravan & Caravan Park
- (e) Home Stay/ Bed & Breakfast/ Vacation Rental Homes/ Tented Accommodation / Tourist Apartments
- (f) Other units as mentioned in the para indicating eligible units in this chapter.

	A	B	C	STZ/STD
Eligibility Period (in years)	03	03	05	05
SGST reimbursement	50% of SGST on net paid	75% of SGST on net paid	100% of SGST on net paid	100% of SGST on net paid
Electricity duty Exemption	50%	75%	100%	100%
Electricity Tariff (Difference between commercial tariff and industrial tariff)	50%	75%	100%	100%

211. It is therefore relevant to note that the Maharashtra Tourism Policy 2024 has been formulated to position the state as a premier tourism destination, both nationally and globally. With a focus on sustainable and inclusive development, the policy aims to emphasise diverse tourism themes, including eco-tourism, rural and agro-tourism, wellness, adventure, supported by improved infrastructure and ease of doing business. Among the various fiscal incentives offered under the policy, a benefit has been given in the form of '**Electricity Tariff Refund**' which seeks to ease the operational burden on tourism enterprises.

212. Under the said incentive it is the intent of the State Government of Maharashtra that the eligible tourism units are "**entitled to a refund**" of the difference between commercial and industrial electricity tariffs. The extent of this refund varies based on the classification and location of the project, ranging from 50% to 100%. This benefit is available for a specified eligibility period, which differs depending on whether the unit is categorised as MSME, Large, Mega, Ultra Mega, or is located in a Special Tourism Zone.

213. Most importantly, this is a "**post-consumption reimbursement**" and not a "direct concession/fiscal benefit" that must be passed on at the very inception of consumption and billing, reflected in the initial payment on the electricity tariff. The policy is premised on the fact that the ones seeking benefit under this category are entitled to a "**difference**" between the electricity tariff of two categories and not an entitlement to pay only for the lower of the two categories. Hence, the eligibility of the benefit and the transfer of the benefit is in the manner of "**refund**". The tourism unit must be duly registered with the Directorate of Tourism and fulfil other prescribed conditions. This incentive is aimed at enhancing the financial viability of tourism projects and encouraging greater private sector participation in the sector.

**Erroneous applicability of the Maharashtra Tourism Policy by this Hon'ble Commission by re-categorizing of the category is in complete contradiction of the policy itself and the provisions of the Electricity Act and Regulations made thereunder**

214. In its MYT Order, the Hon'ble Commission has erroneously sought to give effect to the "Tourism *Policy of Maharashtra, 2024*," issued by the Government of Maharashtra on 18 July 2024, which aims to promote tourism in the State by extending fiscal incentives to hotels and tourism units. It is stated that the Hon'ble Commission also took into account several representations received in response to the Review Petitioner's proposal to increase the tariff for the commercial category.
215. That the Hon'ble Commission reclassified hotels with lodging facilities from the Commercial to the Industrial Tariff category. Under this revised classification, Resorts, Hotels, and Guest Houses with lodging facilities have been brought under the Industrial category, and a rebate on Energy Charges has been granted based on their location.
216. However, the said re-clarification/re-categorisation has wrongly implemented the policy with the act of reclassifying hotels (with lodging facility) from the Commercial to the Industrial tariff category, despite there being no provision/directive or even indication of the same in the Tourism Policy, 2024 i.e., this category shall be reclassified. By way of the said re-categorisation, this Hon'ble Commission has sought to pass on a benefit to the said category which has not even been envisaged by the Maharashtra Tourism Policy, 2024.

217. Hence, it is respectfully submitted that the Hon'ble Commission has committed a grave and serious error in misapplying/mis-reading the Maharashtra Tourism Policy, 2024, thereby causing grave harm and injustice to the Review Petitioner and all other stakeholders.
218. The Maharashtra Tourism Policy, 2024 unequivocally provides for a *refund* of the differential between commercial and industrial tariffs in a graded manner starting from 50% to 100% as per the Zone Classification, whereas the Hon'ble Commission has instead altered the applicable tariff category itself as industrial and granted 100 % tariff difference by recategorizing of this category as industrial for all the zones with an additional Discount/Rebate in Energy Charges. The said rebate on the revised tariff is neither of which is contemplated under the policy framework.
219. Thus, the Tariff Order contains an error apparent on record and the Hon'ble Commission has not exercised its powers and role contemplated under Section 62 (3) of the Electricity Act.
220. Furthermore, it is relevant to note that the Section 65 of the Electricity Act provides for the provision of subsidy by the State Government, which states that should the Government require to subsidize any class or category of consumers, it shall do it by paying the subsidy amount in advance and not in the manner the Hon'ble Commission has attempted to do.
221. Therefore, the recategorization of hotels with lodging facilities from Commercial to the Industrial Tariff category is beyond the purview of the Maharashtra Tourism Policy, 2024, itself.
222. Additionally, the rebate given by the Hon'ble Commission over and above the said re-categorisation is also in complete violation of the Maharashtra Tourism Policy, 2024 or any provision of the Electricity Act, and regulations made thereunder.

### **Earlier Re-categorisation was denied on correct principles**

223. That while the Government of Maharashtra, Tourism Department had issued a specific mandate for Hotel Industry as under:

- 1) *From April 1, 2021, the hoteliers registered with the Ministry of Tourism of the Central Government should be charged the industrial rate of electricity tariff, electricity charge, water tariff, property tax, development tax, increased mat area index and non-agricultural tax.*
- 2) *Hoteliers who are not registered with the Ministry of Tourism of the Central Government should be levied tax / duty at the industrial rate after fulfilling the prescribed criteria to achieve the Basic Minimum Standards. For that, an expert committee should be appointed and the process of determining the criteria of the state should be completed within two months.*

A copy of the said policy is annexed as **Annexure P-14**.

224. However, even with the specific mandate as extracted above, it is pertinent to note that in the MYT Order for FY 2020-21 to FY 2024-25, the Hon'ble Commission did not specifically re-classify the same and rather placed *inter alia* marriage halls, hotels/restaurants', in the LT – Non-residential or Commercial category for electricity used at Low/Medium voltage in non-residential, non-industrial and/or commercial premises for commercial consumption, or in the HT – Commercial for electricity used at High Voltage.

### **"LT II: LT – Non-Residential or Commercial"**

#### **Applicability:**

*This tariff category is applicable for electricity used at Low/Medium voltage in non-residential, non-industrial and/or commercial premises for commercial consumption meant for operating various appliances used for purposes such as lighting, heating, cooling, cooking, washing/cleaning, entertainment/ leisure and water pumping in, but not limited to, the following premises:*

...

*b. Combined lighting and power supply for facilities relating to Entertainment, including film studios, cinemas and theatres (including multiplexes), Hospitality, Leisure, Meeting/Town Halls, and places of Recreation and Public Entertainment; Offices, including Commercial Establishments; Marriage Halls, Hotels / Restaurants, Ice-cream parlours, Coffee Shops, Guest Houses, Internet / Cyber Cafes, Telephone Booths not covered under the LT I category, and Fax / Photocopy shops;*

...

## **HT II: HT- Commercial**

### **Applicability:**

*This tariff category is applicable for electricity used at High Voltage in non-residential, non-industrial and/or commercial premises for commercial consumption meant for operating various appliances used for purposes such as lighting, heating, cooling, cooking, washing/cleaning, entertainment/ leisure and water pumping in, but not limited to, the following premises:*

...

*c. Marriage Halls, Hotels / Restaurants, Ice-cream parlours, Coffee Shops, Guest Houses, Internet / Cyber Cafes, Telephone Booths and Fax / Photocopy shops;"*

225. Furthermore, in the approval of Final Truing-up for FY 2019-20, FY 2020-21 and FY 2021-22, Provisional Truing-up for FY 2022-23 and Revised Projections & Tariff for FY 2023-24 to FY 2024-25 for the Review Petitioner, the commission observed the following:

"....

7.24.6 *The Commission has taken note of all suggestions, objections and concerns expressed by MSEDCL and consumers/objectors and also taken into consideration implementation aspects associated with applicability of tariff for this category. The Commission notes that tourism is an important aspect of economic activity, however, the classification and applicability of tariff will have to be governed as per the usage/nature of purpose for electricity consumption as per principles outlined under Act/Regulations.*

...

7.24.8 *Thus, the Commission hereby rules the applicability of tariff in respect of hotels, independent villas/bungalows rented for accommodation under tourism/commercial activity and home-stay type accommodation as outlined below:*

- *Hotels and Independent Vilas/bungalows rented for accommodation for tourism/commercial activity shall be covered under commercial category.*
- *Accommodation facilities provided covered under Home-stay shall be included under residential category, subject to the conditions specified as applicable for Residential Category."*

226. In this regards it is to mention that Government of Maharashtra GR date 03 December 2020 specifically mention that *the industrial category shall be applicable for Hotels registered under Ministry of Tourism, Government of India*, but Hon'ble Commission has correctly denied it categorization as industry in its MTR order 226 of 2022. However, vide new tourism policy 2024 Government of Maharashtra clearly indicated only for reimbursement of tariff difference from Commercial to Industrial as per graded manner based on zone wise classification. However, hon'ble commission wrongly interpreted the Tourism Policy 2024 and recategorized Hotels under industrial category.
227. However, the Hon'ble Commission has erroneously held that the said classification was based on the then-prevailing tourism policy. It further relied on the subsequent introduction of a new policy by the Government of Maharashtra and the commencement of a fresh multi-year tariff control period to revisit the tariff philosophy, structure, and applicability for various consumer categories—an exercise undertaken beyond the scope of the applicable legal framework. That this decision/action of the Hon'ble Commission is not only violative and complete contradiction of the Maharashtra Tourism Policy, 20204, it also in complete violation of the principles qua categorization under the Electricity Act, Regulations made thereunder and the role of the Hon'ble Commission.
228. In this regard, it is also pertinent to refer to paragraphs 7.30.34 to 7.30.36, wherein the Hon'ble Commission, whilst duly acknowledging that the earlier tariff orders treated hotels under the Commercial Tariff category, reasoned that the category for Hotels was being changed to Industrial Tariff Category to address the concerns of stakeholders and to allegedly comply with the Tourism Policy of Maharashtra, 2024. It may be noted that the reasons provided by the Hon'ble Commission are not only incompatible with the stated provisions of the Electricity Act but also conflict with the Hon'ble Commission's earlier stand.
229. Therefore, the conduct of the Hon'ble Commission in re-categorization is in direct conflict with and contrary to Section 62(3) of the Electricity Act, which provides *"The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required."*

230. It is apposite to state that under the Electricity Act, the appropriate commissions are prohibited from giving 'undue preference' to a particular class of consumers, while determining tariff. However, the Commission may differentiate between consumers on limited grounds mentioned in the provision itself viz. on the basis of load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required. This provision is also reflected under Regulation 111.1 of the MYT Regulations which provide that "*The Commission may categorize consumers on the basis of their load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.*"
231. It is relevant to note that the statute, while permitting the commission to differentiate among consumers on certain limited grounds, does not permit recategorization of a consumer. Thus, recategorizing hotels with lodging facility from commercial to industrial category is entirely illegal, invalid and in contravention of the Electricity Act, and thus an error apparent on record. Further, even if the Hon'ble Commission were to be permitted to modify the tariff category of a particular class of consumer and differentiate between 'hotels with lodging facility' from other existing commercial tariff consumers, the same ought to have been done on the grounds/criteria specified in Section 62(3) of the Electricity Act. It is submitted that policy pronouncements of the Government of Maharashtra and addressing concerns raised by stakeholders during the public consultation process, are not indicated as criteria under Section 62(3), basis which the tariff category of a consumer can be changed.
232. That suffice to state, it was inappropriate on part of the Hon'ble Commission and against statutory dictate to change the category of Hotels/Resorts/Guesthouse with lodging facility to Industrial, solely on the basis of the Tourism Policy of Maharashtra 2024 and to address concerns of certain consumers. It is relevant to note and state that even on the ask/objections and comments of certain stakeholder/consumers, the Hon'ble Commission cannot re-write/overwrite and/or pass on the benefit in a manner not contemplated at all in the policy in the first place.

233. In this regard it may be noted that categorization/differentiation is not permissible under the Electricity Act and if at all permissible the same has to be on the parameters stipulated under Section 62 (3) of the Electricity Act and under the MYT Regulations, which is an exhaustive list, and no other. It is submitted that the list provided under Section 62(3) of the Electricity Act being exhaustive, the Hon'ble Commission ought to have considered only those stipulated factors while re-categorizing any consumer class, particularly when the statute categorically states that 'undue preference' shall not be given to any consumer of electricity. It is trite law that where a statute grants a discretionary power, the same must be exercised on relevant and not on extraneous considerations. In other words, the discretionary power must be exercised taking into account considerations mentioned in the statute itself and where the statute mentions no such consideration, the power is to be exercised on considerations relevant to the purpose for which it is conferred.
234. Hence, accordingly, any action taken pursuant to the exercise of a discretionary power which takes into account wholly irrelevant and extraneous circumstances is invalid. It is also settled that an authority exercising discretionary power must form its opinion on cogent material and in the garb of exercising its discretionary powers, must not do what it has been forbidden to do nor do what it has not been authorized to do. Thus, any decision on part of the Hon'ble Commission to recategorize a class of consumers ought to have been taken in good faith, judiciously and basis all relevant and necessary considerations, so as to ensure that no undue preference is given to any consumer. This position has been time and again upheld by the Hon'ble APTEL in a multitude of judgments.
235. That the categorization of Hotels with lodging facility as an industrial consumer is arbitrary and neither based on intelligible differentia nor does the differentia have a rational relation to the object sought to be achieved under the Electricity Act which in addition to promoting the interest of consumer also provides for *"...taking measures conducive to development of electricity industry, promoting competition therein and supply of electricity to all areas, rationalization of electricity tariff.."*.
236. That the erroneous interpretation given by the Hon'ble Commission has resulted in loss/financial burden on the Review Petitioner (which was never envisaged by the Tourism Policy, 2024) on account of the change in the tariff category of hotels is approx. 171 crore per year, which will have a debilitating impact on the development of the electricity industry and affect the Review Petitioner's ability

to supply electricity, thereby defeating the entire objective of the Electricity Act. As per projections, the financial impact is expected to be as follows:

Total Projected impact of Hotel/Lodging Consumers category change from Commercial to Industrial (HT+LT)			
FY	Consumption	Impact in (Rs)	Impact in (Crores.)
25-26	28,79,00,062.8	161,03,32,628	161.03
26-27	30,41,34,198.5	164,46,51,658	164.47
27-28	32,12,85,921.7	169,10,45,084	169.10
28-29	33,94,07,212.1	175,90,17,291	175.90
29-30	35,85,53,000.2	184,42,36,577	184.42

oregoing, it is evident that the Hon'ble Commission's decision to reclassify hotels with lodging facilities from the Commercial to the Industrial Tariff Category is legally untenable, violative of the policy and contrary to the statutory framework established under the Electricity Act. The Tourism Policy of Maharashtra 2024 does not mandate or even suggest a change in the tariff category; rather, it envisages a refund mechanism that operates *post facto* and through direct government subsidy. The Hon'ble Commission's action not only misinterprets the policy but also circumvents the limitations imposed under Section 62(3) of the Electricity Act, which lays down an exhaustive list of parameters for valid differentiation. Accordingly, the impugned reclassification constitutes an error apparent on the face of the record and warrants immediate correction.

238. That the reference of this issue is also made in context of the issue qua sales projections, for the said re-categorization has considered higher commercial growth. It is an apparent error that it is not factored in sales projections.

#### **B. Undue benefit on account of wheeling charges due to non-establishment of EHV network by MSETCL**

239. MSEDCL submitted that, as per the MYT Order dated 30.03.2020 in Case No. 322 of 2019, wheeling charges for consumers should be levied based on their Billing Demand, provided the requisite demand is maintained for at least 9 months in a

financial year. Additionally, Clause 4.2 of the MERC Supply Code & SoP Regulations, 2021 mandates that the cost of network for providing connections to EHV consumers is to be borne by the Transmission Licensee i.e., MSETCL. The Commission, in its Order dated 02.09.2022 in Case Nos. 62, 63 & 64 of 2022, reaffirmed this obligation and ruled that any cost incurred by the consumer in establishing EHV infrastructure should be reimbursed by MSETCL to the Distribution Licensee within seven (7) days of asset transfer, after deducting applicable charges.

240. MSEDCL further highlighted that many consumers eligible for EHV-level connectivity (above 33 kV) are currently connected at HV levels (33 kV/22 kV) due to non-establishment of EHV infrastructure by MSETCL. This results in higher current drawl and increased line losses, as HV losses (7.5%) are significantly higher than EHV losses (3.16%–3.28%). That the Billing data from October 2024 indicates that eight consumers collectively consume 106.85 MUs per month at HV levels. Due to higher losses at HV levels, MSEDCL incurs an additional energy requirement of 5.15 MUs per month, translating into an estimated financial burden of Rs. 4.18 crore per month (Rs. 50.22 crore per year) at the prevailing industrial tariff of Rs. 8.12 per unit.
241. Furthermore, MSEDCL has submitted that it is also burdened by the exemption of wheeling charges, leading to an additional financial impact of Rs. 6.41 crore per month (Rs. 76.93 crore per year), considering a wheeling charge rate of Rs. 0.60 per unit. Consequently, the total financial burden due to higher line losses and wheeling charge exemption amounts to Rs. 10.59 crore per month (Rs. 127.15 crore per year). Given this financial strain, MSEDCL has challenged the levy of wheeling charges before the Hon'ble APTEL (DFR No. 667/2023, filed on 29.11.2023) against the Order dated 31.03.2023 in Case No. 226 of 2022. MSEDCL submitted that, as a revenue-neutral entity, it cannot continue bearing this financial burden due to MSETCL's failure to establish the necessary EHV infrastructure within a reasonable timeframe.
242. That for the years under the Control Period, MSEDCL requested the Ld. Commission to allow it to recover these financial losses from MSETCL in cases where MSETCL fails to establish the required EHV infrastructure within the stipulated period. That the Ld. Commission has erroneously denied the same.
243. That the Ld. Commission while noting the concerns raised by MSEDCL regarding the financial burden caused by the lack of necessary EHV network development, merely observes that this issue is related to limited consumers and is primarily a

matter between MSEDCL and MSETCL. Given the limited scope and specific nature of this issue, the Commission determines that it is not suitable for resolution within the MYT proceedings. The Ld. Commission erroneously overlooks the financial burden by merely suggesting that MSETCL and MSEDCL shall resolve the issues amicably and in case of unresolved disputes, if any, the Parties are free to seek remedy for adjudication through separate regulatory process, which cannot be addressed as part of present MYT petition process.

244. While concluding the above, the Ld. Commission re-sets the clock to the erstwhile position, overlooking the data presented for the future period, and suggests that the dispensation given in earlier order will be continued, which include the following:
- a. In case of non-availability of EHV or requisite voltage level, the wheeling charges to the consumer shall be applicable as per the Billing Demand recorded i.e. based on recorded billing demand, the consumer is eligible for connection at EHV level, then wheeling charges applicable for EHV level i.e. 'Nil' shall be billed to such consumer.
  - b. Applicability of such concession shall be subject to MSEDCL internally certifying the non-availability of the requisite voltage level and further that the billing demand shall be as per the requisite voltage level is met by the consumer for at least 9 months in a financial.
  - c. In case actual billing is less than a year, in that case, the Commission clarifies that consumer needs to maintain billing demand as per requisite voltage level for 75% of bills actually raised during the Financial Year.
245. Hence, the Ld. Commission has erroneously given an undue benefit to a specific category of consumers, in complete violation of the provisions of the Act and Regulations made thereunder. MSEDCL seeks correction of the same from the Ld. Commission.

#### **IX. Inequitable Distribution of Savings in Power Purchase Cost**

246. It is stated that the Hon'ble Commission has not carried out an equitable distribution of savings from cost optimisation to different category of consumers, and the distribution of saving from cost optimization and it is rather against the principles laid down in Section 62 (3) of the Electricity Act. The Hon'ble Commission has acknowledged the allocation of MSKVY power for agricultural use but has apportioned the remaining demand across all other sources of power procurement in the range of 9–11%. It is envisaged from this order that the overall average price of electricity for HT-industry would decrease by 15% compared Existing Tariff, and in case of LT-Industry the average price of electricity would reduce by around 11%. **Further, in case of HT commercial category, the average price of electricity would reduce by around 30% and that for LT-Commercial category would reduce by 20% as compared to Existing Tariff. Whereas the Agriculture tariff is witnessing an increase of 15% as compared to Existing Tariff..** Such an act is in teeth of the provisions of the Electricity Act and regulatory provisions made thereunder.

**A. Background and Impact**

247. This Hon'ble Commission in its MTR Order in Case No. 226 of 2022 has ruled that the Review Petitioner should explore the possibility of formation of separate agriculture supply company. The relevant extract of the Hon'ble Commission's ruling is as under:

*"7.1.43 The Commission vide its letter dated 05 January 2022 advised to GoM for undertaking study of MSEDCL's operations and laying down time bound plan for performance improvement. In the said advisory one of the options suggested is with regards formation of new Company for Agricultural consumers. This has become urgent need of the hour as the tariff for industrial and commercial category consumers have reached to level with very high level of cross-subsidy. Further, accounting of the energy consumption as well as quality of power supply to agriculture consumers/feeders require dedicated and focussed efforts. Formation of separate agriculture company would enable monitoring and ensuring accountability towards both these category of consumers with two separate organisations, as their mandate would drive such focussed efforts necessary at this stage. In view of above, the Commission directs MSEDCL to pursue this option and chart out the modalities for implementation of the same expeditiously."*

248. To meet the above objective MSEDCL has undertaken extensive programme for solarisation of Agriculture feeders under Government of Maharashtra's flagship programme of MSKVY2.0 to provide day-time power supply to agriculture consumers with projected solar capacity addition of around 16,000 MW. With the increase in solar capacity, it is envisaged that the cross-subsidy burden and subsidy burden on GoM would be reduced.
249. The commission seems to have acknowledged the same and has reduced the cross-subsidy burden on commercial and industrial categories.
250. The commission in its order para 7.1.12 states that

*.....With the increase in availability of power (generation) in the State and expected growth in Solar capacity addition along with robust transmission network for a reliable supply, the Commission deems it fit to reduce the overall cross-subsidy with overall reduction ....*

251. The commission further in its order para 7.1.15 states that it has significantly reduced cross subsidy from commercial category.

*The Commission has ensured that Tariff for Commercial category consumers (HT and LT) is reduced significantly as compared to prevalent Tariff...*

252. Basis the above efforts taken by MSEDCL, in its MYT Petition for Fifth Control Period, MSEDCL has submitted that the Review Petitioner has segregated the ARR for agricultural and non-agricultural consumers based on a specific methodology detailed in its MYT Petition. However, while approving the ARR, the Hon'ble Commission adopted a different approach than the one proposed by the Review Petitioner. Instead of following the Review Petitioner's methodology, this Hon'ble Commission apportioned non-power purchase expenses based on the ratio of sales. This approach is not appropriate, as most of these item of expenses (O&M, Depreciation, IoWC, etc.;) are directly linked to the GFA, which in turn are more closely associated with the number of consumers rather than the volume of sales.

253. As per section 7.7.2, this Hon'ble Commission has proposed that there is reduction in tariff by around 11% during first year and cumulative reduction of - 16% by FY 2029-30. However, while allocating the savings, this Hon'ble Commission has disproportionately passed on the advantage to consumer categories other than Agriculture. All other major categories have reducing tariff trend while Agri has a rise in tariff of 15%. The year-wise tariff reduction trend across major categories is provided below for reference:

Consumer Category	FY 25	FY 26	FY 27	FY 28	FY 29	FY 30	Variance
HT Industry	10.85	9.2	9	8.83	8.79	8.76	-19%
HT Commercial	16.97	11.71	11.24	11.07	11	10.96	-35%
LT Industry	10.1	8.99	8.79	8.69	8.68	8.65	-14%
LT Commercial	14.75	11.75	11.4	11.21	11.11	11.03	-25%
LT Agriculture	5.49	6.37	6.72	6.7	6.5	6.31	15%

254. For power purchase expenses, the Review Petitioner has allocated solar power from MSKVY and other intra-state solar power to the agricultural business, following the principle that the MSKVY capacity has been developed to reduce cost to serve agriculture consumer and lessen cross subsidy burden on the industrial and commercial consumers in Maharashtra.

255. As per MSKVY 2.0 scheme document and implementation guidelines:

*"To achieve above objectives, the MSKVY2.0 scheme aims to facilitate faster capacity addition in "Distributed RE Mode". It would interconnect solar PV projects of appropriate size to source enough solar energy to meet supply requirement for agriculture use. This program aims to reduce cost to serve agriculture consumers in Maharashtra. This will reduce the cross-subsidy burden on the Industrial and Commercial consumers. This is going to improve financial health of MSEDCL."*

256. In contrast, the Hon'ble Commission has acknowledged the allocation of MSKVY power for agricultural use but has apportioned the remaining demand across all other source of power procurement in the range of 9–11%.

257. In this regard, MSEDCL submits the following:

**(i) Allocation of Solar Power to Agriculture:**

(a) The Review Petitioner has sufficient intra-state solar capacity to meet the residual agricultural demand after accounting for generation under the MSKVY scheme. With reference to the Hon'ble Commission's observation regarding the infirm nature of solar power, it is respectfully submitted that, **commission has made an error in categorizing solar as**

**infirm power.** Although solar is inherently variable, its predictability has significantly improved due to advancements in forecasting technologies. Importantly, the Hon'ble Commission itself has acknowledged this increased predictability and has mandated the scheduling of large solar power plants, requiring them to submit day-ahead schedules. As per the **MERC (Forecasting, Scheduling and Deviation Settlement for Solar and Wind Generation) Regulations, 2018**, all wind and solar generators with an aggregate installed capacity of 5 MW and above are required to participate in forecasting, day-ahead scheduling, and are subject to deviation settlement under the SLDC framework. This further reinforces that such solar generators are not "infirm" in nature.

*"Clause 4.1 These Regulations shall apply to all Wind and Solar Energy Generators in Maharashtra connected to the Intra-State Transmission System, including those connected through Pooling Sub-Stations, and using the power generated for self-consumption or sale within or outside the State:*

*Provided that the combined installed capacity of the Solar or Wind Generators connected to a particular Pooling Sub-Station, or that of an individual Generator connected to some other Substation, shall not be less than 5 MW.."*

- (b) As such, the blanket characterization of solar power as infirm and unsuitable for agricultural use is no longer fully accurate. The limited variability that does exist can be effectively addressed through the deployment of advanced energy storage systems, especially as distributed solar capacity expands. Furthermore, during the monsoon season; when solar generation may be lower agricultural demand naturally decreases due to rainfall, creating a seasonal balance between supply and demand.
- (c) While solar may not be dispatchable in the traditional sense, the combination of improvement in technologies, and emerging solutions significantly enhances its reliability. This makes solar a technically and operationally viable option for meeting agricultural energy needs alongside conventional fixed and dispatchable sources.

**(ii) Distribution Losses Assumption:**

- (a) The Review Petitioner has considered a distribution loss of 10% for agricultural supply under the MSKVY scheme, based on the fact that power is injected at the 11 kV level and consumed at the LT level. As the power does not flow through the higher voltage tiers such as EHV (220/132 kV) and 33 kV the associated technical losses at those levels,

which typically range between 2–3% for EHV and 4–5% for 33 kV networks, are not incurred in this supply chain.

- (b) Accordingly, attributing these higher voltage level losses to agricultural consumption under MSKVY inflates the actual loss figure and misrepresents the efficiency of localized supply. By avoiding the EHV and 33 kV networks, MSKVY effectively results in a savings of approximately 6–7% in distribution losses.
- (c) Therefore, the Hon'ble Commission's methodology of applying total system-wide distribution losses, including those from voltage levels not utilized in this scheme, does not accurately reflect the true loss scenario for agricultural supply under MSKVY.

**(iii) O&M Expenses and GFA Allocation:**

- (a) MSEDCL has projected its O&M expenses in accordance with the MYT Regulations, using GFA as the basis, as prescribed. The allocation of GFA has been carried out proportionately based on the number of consumers rather than energy consumption. This approach is justified and consistent with MSEDCL's Universal Service Obligation (USO), which mandates the provision of electricity supply to all consumers, regardless of their individual consumption levels.
- (b) Many components of the GFA such as substations, distribution transformers, and LT lines are directly linked to the infrastructure required to connect and serve each consumer. As such, the number of consumers is a more appropriate driver for GFA allocation than sales volume. This methodology ensures a fair and realistic distribution of O&M expenses across consumer categories, particularly where consumption does not reflect the true cost of service delivery.

**(iv) Depreciation and Interest on Loans:**

These network-related expenses have also been allocated based on the GFA, following the same consumer-based principle as above.

**(v) Interest on Security Deposits:**

The interest on security deposits has been calculated using the actual contribution of agricultural consumers as of 31 March 2024, escalated at 10% of the control period. Therefore, allocating this expense based on sales, instead of actual deposit data, is not appropriate.

**(vi) Provision for Bad Debts:**

As per regulations, bad debts have been considered at 1.5% of account receivables. Currently, agricultural consumers account for approximately 60% of MSEDCL's total receivables, and this share has been assumed for the entire control period. Thus, allocation based on sales rather than receivables does not reflect the actual exposure.

**(vii) IoWC:**

- (a) The IoWC has been calculated in line with the MYT Regulations, 2024. Therefore, the Hon'ble Commission's method of allocating IoWC based on sales ratio does not align with the regulatory provisions.

258. It is stated that the Hon'ble Commission while carrying out prudence checks under Section 62 of the Electricity Act is mandated to ensure that consumers receive the benefits arising from efficient procurement practices. The Hon'ble APTEL has consistently held that savings or gains achieved by a distribution licensee in power procurement — whether due to efficient scheduling, lower purchase price, optimization, or market interventions — must be shared with consumers. Power procurement is a regulated cost, and consumers cannot be denied the benefits of any efficiencies achieved by the licensee. Hence, any such distribution must be equitable and cannot be at the cost of one category of consumers. The Hon'ble Commission must act within the contours of the Electricity Act while carrying out regulated activities. In the case of ***Reliance Infrastructure Ltd. v. MERC & Ors*** being **Appeal No. 243 of 2010, APTEL, Judgment dated 11.11.2011**, it was noted that any efficiency gains must be passed on to consumers and the gains must not just be computed but also shared according to the approved mechanism or directions provided in the Electricity Act and the regulations.
259. It is submitted that the saving in power procurement due to cheaper power is not passed equilaterally to all consumer category, especially agriculture which has resulted in increase in AG tariff w.r.t to the proposed AG tariff.

**X. Manifest error in calculation of rate of depreciation for FY 2022-23 to FY 2024-25 and for the Fifth Control Period**

260. It is humbly stated and submitted that the MYT Order suffers from a significant and apparent error in the calculation and application of depreciation rates during the True-Up & Annual Performance Review (APR) period, as well as the Fifth

Control Period. It is humbly submitted that it is imperative that depreciation, a crucial component of tariff determination, is calculated and applied in accordance with the Multi Year Tariff Regulations, 2019 for True up and Provisional True up years and MYT Regulations, 2024 for Fifth Control Period. The errors in the current depreciation calculation have led to under-recovery of costs, adversely impacting the MSEDCL financial health and hindering the accurate determination of tariff requirements. The Review Petitioner's submissions in this regard are as follows: Fourth Control Period: True up & Provisional True-Up Period (FY 2022-23 to FY 2024-25) It is stated that as per the Multi Year Tariff Regulations 2019 and 2024 for the True up and Provisional True-Up period depreciation is to be computed on the approved original cost of the fixed assets, following the Straight-Line Method (SLM) at the rates specified in Annexure I to the said Regulations. The relevant provision is excerpted below:

*"28.1.a. The approved original cost of the fixed assets shall be the value base for calculation of depreciation:*

*Provided that the depreciation shall be allowed on the entire capitalized amount of the new assets after reducing the approved original cost of the retired or replaced or de-capitalized assets."*

261. The commission in its order under section 3.12.3 stated that as per the provision of MYT Regulations, 2019, consumer contribution and grants has been deducted from GFA while working out depreciation. However, while calculating the depreciation rate, MERC has considered the GFA addition inclusive of Consumer Contributions (CC) and Grants, thereby resulting in a lower depreciation rate. The formula used in the model shared by Commission is as below:

*"Depreciation Rate = Actual Depreciation Claimed ÷ (Opening Regulatory GFA + 0.5 × GFA Addition during the year)"*

It is therefore clear that after erroneously computing the depreciation rate as mentioned above, this Hon'ble Commission has subsequently applied this on the Regulatory GFA and GFA additions excluding CC and Grants, resulting in a situation where depreciation itself has not been granted for assets created with grants and consumer contribution, but the said assets have been considered while calculating the average rate of depreciation, which is a clear and manifest error. The above error in calculating the depreciation rate has resulted in the lesser approval of depreciation expenses, which will lead to inadequate recovery of MSEDCL's legitimate costs from its consumers. This

Hon'ble Commission is accordingly requested to rectify the erroneous depreciation rate and accordingly approve the depreciation expenses for FY 2022-23 to FY 2024-25 as per the correct approach.

**A.** *Fourth Control Period: True up & Provisional True-Up Period (FY 2022-23 to FY 2024-25)*

262. It is submitted that For FY 2025-26, this Hon'ble Commission in its ARR Model has erroneously linked the depreciation rate of FY 2024-25 for calculating depreciation of existing assets. However, as per paragraph 4.9.5 of the MYT Order, the depreciation rate for FY 2024-25 was considered same as calculated for FY 2023-24. Relevant extract from the MYT Order is excerpted below:

*"4.9.5 .... As regards Depreciation rate for computation for FY 2024-25, it is considered as actual weighted average rate for FY 2023-24."*

263. In this regard, it is submitted that the GFA base for FY 2025-26 is significantly different from the GFA base of FY 2024-25 due to key changes such as additional capitalisation and asset retirements during the period. Applying the depreciation rate of FY 2024 -25 to FY 2025-26 is, therefore, an apparent error, which ought to be rectified by this Hon'ble Commission. Failure to account for these differences has resulted in lower depreciation amount for FY 2025-26.
264. The aforementioned error becomes even more apparent as the depreciation treatment for FY 2025-26 is not consistent with the approach adopted for the subsequent years, FY 2026-27 to FY 2029-30. For the latter period, this Hon'ble Commission has duly calculated and applied separate depreciation rate for each year, in line with the formula outlined above.
265. It is submitted that this inconsistency between FY 2025-26 and subsequent years is an apparent deviation from established regulatory framework. The failure to link the correct depreciation rate in the ARR Model results in underestimation of allowable depreciation expenses, which directly impedes MSEDCL's ability to recover its costs.
266. The Hon'ble Commission is, therefore, respectfully requested to rectify this error and approve the depreciation expenses for FY 2025-26 based on a revised depreciation rate, consistent with the methodology adopted for rest of the Fifth Control Period.

267. It is also requested to give the similar treatment for calculating depreciation expenses on the revised GFA (including Additions during the year) based on the submitted capitalisation in this review petition.

# **XI. Disallowance of Grid Support Charges**

268. The Commission, through MERC Grid Interactive Rooftop Renewable Energy Generating Systems Regulations, 2019, has mandated the levy of GSC under Net Metering systems. These charges are determined based on balancing, banking, and wheeling costs after adjusting for RPO benefits, avoided distribution losses, and other benefits.
269. The relevant extract of the said regulation is extracted as below:

*"11.5... The Commission may determine in the retail Tariff Order such Grid Support Charges to be levied on the generated energy under Net Metering systems which shall cover balancing, banking and wheeling cost after adjusting RPO benefits, avoided distribution losses and any other benefits accruing to the Distribution Licensee. These Grid Support Charges would be determined consumer tariff category wise, based on the proposal of the Distribution Licensee in its retail supply Tariff Petition, supported by adequate justification:  
Provided that the consumers of all Categories having Sanctioned Load up to 10 kW shall be exempted from payment of Grid Support Charges for Net Metering systems:"*

270. The Commission in the Maharashtra Electricity Regulatory Commission (Grid Interactive Rooftop Renewable Energy Generating Systems) (First Amendment) Regulations, 2023 introduced the proviso that the grid support charges shall not be levied till rooftop installations in the state reached 5000 MW.

*Introduction of 2nd Proviso to Regulation 11.5 of the Principal Regulations:—*

*"Provided further that the Grid Support Charges shall not be levied till installations under rooftop arrangement in the State reach 5000 MW:*

*Provided also that till the Grid Support Charges as envisaged in the Regulations stay exempted, Distribution Licensees may approach the Commission with specific Petition for recovery of banking charges, and in case, the recovery of banking charges have already been approved by the Commission prior to notification of these Regulations, the same shall continue."*

271. MSEDCL in its MYT Petition submitted that it has implemented rooftop solar schemes, including the MNRE Phase-II Grid Connected Rooftop Solar Program and the PM Surya Ghar: Muft Bijli Yojana. The total rooftop solar (RTS) capacity in Maharashtra has reached approximately 2,635 MW, with MSEDCL's license area contributing 2,545 MW at the time of filing of the petition.
272. MSEDCL had also submitted that the pace of RTS installations in its license area in last few years is growing at very high-rate y-o-y as provided below:

Growth in RTS capacity in MSEDCL license area

Financial Year	FY 19	FY 20	FY 21	FY22	FY 23	FY 24	As on date
Installed capacity (MW)	288.79	511.49	696.85	1016.38	1436.96	1995.1	2545.56
% Increase over last year		77%	36%	46%	41%	39%	28%

273. Furthermore, the pace of applications received from interested consumers for RTS installations have increased over the past few months with the total installed capacity reaching 3218 MW till March 2025. MSEDCL has also plans to implement 900 MW of RTS (detailed below).

Scheme	Total Capacity(MW)
MSEDCL own building	50
Govt building saturation	350
SMART 1 KW per house scheme	500
<b>Total</b>	<b>900</b>

274. Therefore, it is very well expected that cumulative rooftop solar (RTS) capacity in MSEDCL license area would reach 5,000 MW by August 2025 and hence as such Hon'ble Commission should approve grid support charges so that they made applicable once total RTS capacity reaches 5,000 MW.
275. Hon'ble Commission in its MYT Order dated 30th March 2020 had provided approval the proposal of MSEDCL to levy Grid Support charges (GSC) as per principles specified in Net Metering Regulations, 2019. Based on the Regulations, Hon'ble Commission stipulated formulation for determination of Grid Support Charges separately for HT category of consumers and LT category.
276. Based on the above order and regulations MSEDCL has submitted the GCS calculations in its MYT petition and the proposed GSC are as below:

GSC Charges for fifth Control Period

Parameter	FY 25-26	FY 26-27	FY 27-28	FY 28-29	FY 29-30
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HT category	1.44	1.53	1.59	1.63	1.72
LT category	1.93	2.09	2.19	2.25	2.35

277. MSEDCL submits that it has to face multiple commercial and technical challenges due to increased ingress of RTS.
- a. As when consumers underutilize their energy from MSEDCL, it creates a revenue shortfall, leading to tariff increases that burden other consumers. This encourages a shift to RTS capacity, distorting the power market. MSEDCL then handles only peak and nighttime supply but still incurs fixed costs for plants. This also brings challenges in managing thermal plant operations and solar generation fluctuations.
  - b. During the day, excess solar energy is fed into the grid after consumer use, forcing MSEDCL to reduce thermal generation but still pay fixed costs. When solar energy isn't available, consumers rely fully on the grid, requiring standby network and generators. This use of the grid as storage under net metering imposes extra costs on other consumers, including fixed generator costs, infrastructure recovery, and CSS.
  - c. Technical challenges-
    - i. Chichghat Village which is 100% solarized, experiences challenges of grid imbalances, voltage fluctuations, and harmonics due to increased rooftop solar penetration.
    - ii. Overloaded distribution transformers (DTCs) strain MSEDCL's ability to maintain reliable power, as many exceed their rated capacity.
    - iii. Mismatch between solar generation and grid demand, along with reactive power issues, puts pressure on infrastructure and causes financial losses.
    - iv. Strengthen the grid is required to ensure reliable power supply.
278. MSEDCL further submits that Grid Support Charges are applicable on consumers with above 10 kW sanctioned load which are generally high-end LT/ HT consumers which are cross-subsidizing consumers and reduction in energy sales to such high tariff consumers would lead to reduction in Average Billing Rate. The exponential rise in the use of RTS by such consumers would disrupt cross subsidy mechanism inbuilt in the tariff structure. The calculation of the impact of such loss of cross subsidy was also submitted with the MYT petition.
279. It is submitted that the Commission in its MYT order 322 of 2019 for the fourth Control period has also acknowledged that the concern of loss of energy sales from cross subsidizing commercial and industrial categories will have an adverse impact on MSEDCL.

280. The commission further in the same order looking at the current statistics with 460 MW of RTPV system installed in the license area the commissioned deferred the levy of grid support charges under net metering arrangement till cumulative installed capacity of RTPV in the state reaches 2000 MW. Although, the commission in the said order had approved the Grid support charges Rs. 0.72/ kWh for HT category and Rs. 1.16/ kWh for LT category.
281. The Commission in the Maharashtra Electricity Regulatory Commission (Grid Interactive Rooftop Renewable Energy Generating Systems) (First Amendment) Regulations, 2023 increased the cumulative capacity to 5000 MW. This by knowing the fact that this will have an adverse impact on the cross subsidized consumers and on the financial condition of MSEDCL.
282. The Commission under the para 7.14.12 of its MYT Order case 217 of 2024 has acknowledged the need for grid support charges with increased installed capacity of the Solar rooftop systems under Net metering arrangement. But curtails from approving the same.
283. MSEDCL submits that, the Commission may approve the GSC as submitted by the petitioner in the current MYT order.

**XII. Manifest error in respect of removal of RPO fulfilment in respect of green power supplied to non-obligated entities at the green tariff**

284. It is submitted that this Hon'ble Commission has committed a gross error apparent on the face of the record by unilaterally changing the terms of supply of RTC green power at the green tariff by disapproving RPO fulfilment of the Review Petitioner in respect of power supplied to non-obligated entities as well. It is submitted that while doing so, this Hon'ble Commission has acted in an erroneous fashion by selectively approving the Review Petitioner's proposal to reduce the green tariff from Re. 0.66/unit to Re. 0.25/unit, but has also acted squarely in contravention of Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules ("GEOA Rules") and Regulation 7.6(c)(vi) of MERC (Renewable Purchase Obligation, its Compliance and Implementation of Renewable Energy Certificate Framework) (First Amendment) Regulations, 2024 ("MERC RPO Regulations").
285. In this regard, it is submitted that this Hon'ble Commission while determining the Green Tariff in para no. 7.18.7 of the MYT Order, has directed that green

attributes will remain with the consumer and the Review Petitioner will not be able to consider such energy for its RPO fulfilment, even if the consumer to which such power is supplied is a non-obligated entity under the MERC RPO Regulations. Excerpts of this para is reproduced below

*"7.18.7 Hence, the Commission approves green tariff charge as Rs. 0.25/ kWh over and above approved Tariff for the applicable consumer category for 5<sup>th</sup> Control Period. It is to be noted that operational modalities of green tariff will be same as given by the Commission in MTR Order of Case No. 226 of 2022 with only change that green attribute of electricity purchased by consumer by paying Green tariff shall remain with that consumer only and Distribution Licensee shall not count such energy while computing its RPO fulfilment."*

286. It is humbly submitted that the aforementioned findings of this Hon'ble Commission suffer from an apparent error as they are inconsistent with the Rule 4 (C) (f) of the GEOA Rules and Regulation 7.6(c)(vi) of MERC RPO Regulations. The relevant provision of the MERC RPO Regulations are excerpted below for ease of reference:

*"7.6 An Obligated Entity may meet its RPO target by one or more of the following methods:*

*.....*

*(c) By requisition from distribution licensee*

*.....*

*(vi) **The green energy purchased from distribution licensee or from Renewable Energy sources other than distribution licensee in excess of Renewable Purchase Obligation of obligated entity shall be counted towards Renewable Purchase Obligation compliance of the distribution licensee;***

*....."*

287. As is clear from a bare perusal of the aforementioned provision of this Hon'ble Commission's own MERC RPO Regulations, any excess green energy purchased even by a consumer who is an obligated entity shall be counted towards fulfilment of RPO obligations of the relevant distribution licensee. As such, any green energy purchased by a non-obligated entity shall certainly be counted towards the RPO fulfilment of the distribution licensee as a non-obligated entity does not have any RPO and hence does not utilise its green attributes. It is

submitted that the aforementioned approach aligns not only with the MERC RPO Regulations but also with the overall policy direction of maximizing grid-level renewable energy absorption and facilitating licensee compliance with rising RPO targets.

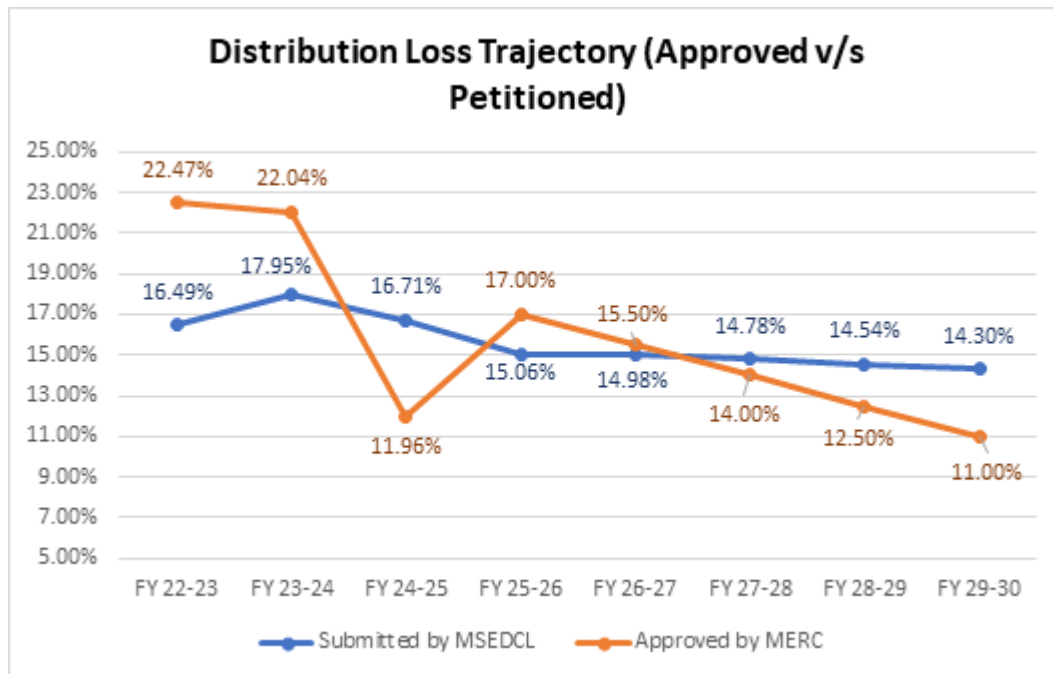
288. In addition to the above, this Hon'ble Commission has also acted in a selective manner and has conditionally agreed to the Review Petitioner's proposal to reduce the green tariff from Re. 0.66/unit to Re. 0.25/unit by removing its ability to account for such power towards its RPO obligations, which it was able to do under the MERC RPO Regulations and previous tariff orders of this Hon'ble Commission. As such, its proposal to reduce the green tariff substantially in the interest of its consumers was fundamentally based on its assumption and legitimate expectation that it will be able to continue to utilise such power towards its RPO compliance. By selectively approving its proposal, this Hon'ble Commission has fundamentally dislodged the basis of such proposal as the Review Petitioner will need to incur additional expenses to meet its RPO in respect of units supplied on green tariff.
289. In this regard, it is further stated that this Hon'ble Commission, in para 3.7.36 of the MYT Order, has observed that MSEDCL's RPO shortfall of 37,156 MUs till FY 2023-24 will be carried forward, thereby creating a significant challenge in meeting future RPO targets. As more consumers opt for Green Tariff due to its reduced cost, disallowing the energy procured under this mechanism from counting towards MSEDCL's RPO compliance would hinder MSEDCL's ability to fulfil both pending and future RPO obligations, resulting in unjustified penalty and financial burden on this Review Petitioner.
290. Such an approach is, therefore, not only contrary to commercial tariff principles but is also contrary to this Hon'ble Commission's own MERC RPO Regulations, and hence suffers from an error apparent on the face of the record, requiring an immediate rectification.

**XIII. Manifest error in disallowance of power purchase cost for the FY 2024-25;**

291. It is submitted that this Hon'ble Commission has committed a serious error while provisionally approving the Distribution Loss for FY 2024-25, which resulted in the severe disallowance of power purchase quantum and power purchase expenses for the MSEDCL. In this regard, it is submitted that at paragraph 4.1.7 of the MYT Order, this Hon'ble Commission has mentioned that it has considered

the AG sales index of FY 2023-24 for determining the AG Sales of FY 2024-25, which resulted in the disallowance of 2,999 MUs in Total Energy Sales (Incl. of DF sales). Total Energy Sales (Incl. of DF sales) submitted by MSEDCL is 1,37,036 MUs, while Hon'ble Commission has approved 1,34,037 MUs. In this regard, the Review Petitioner craves leave to refer to and rely upon its averments and submissions made hereinabove in the section pertaining to disallowance of AG sales and humbly requests this Hon'ble Commission to consider the AG sales for FY 2024-25 as originally submitted by MSEDCL.

292. Without prejudice to the aforesaid, it is submitted that this Hon'ble Commission has failed to carry out a provisional true up of the distribution loss for FY 2024-25 based on the approved sales, and has, instead, in a wholly mechanical fashion retained the distribution loss approved at the time of MTR for the Fourth Control Period.
293. The distribution loss trajectory from FY 2022-23 to FY 2029-30 as approved by the Hon'ble Commission is shown below, representing the sudden decline in Distribution loss of FY 2024-25 which is inconsistent and having detrimental impact on Power purchase expense of MSEDCL.



294. Further, MSEDCL would like to refer to the approach followed by this Hon'ble Commission in the MYT order for the Fourth Control Period (Case No. 322 of 2019), where this Hon'ble Commission had revised (reduced) the estimation of AG sales for FY 2019-20 (Provisional true up year) but considered the Energy

requirement same as submitted by the MSEDCL, thereby revising the distribution loss for FY 2019-20 (Provisional true up year).

295. Table 5.9 (Provisional true up of 2019-20) of MERC MYT Order No. 322 of 2019 is reproduced below which shows the distribution loss approved by this Hon'ble Commission in MTR Order No. 195 of 2017, petitioned by MSEDCL and approved in the MYT Order. The said data clearly demonstrates that this Hon'ble Commission has duly considered available data at the time of provisional true up to revise the distribution loss.

Particulars	MTR Approved	MYT Petition	Approved in the order
<b>Distribution Loss</b>	13.26%	13.26%	18.26%

296. The Review Petitioner humbly requests this Hon'ble Commission to maintain consistency and follow similar approach for FY 2024-25, as followed previously by this Hon'ble Commission.
297. In addition to the aforementioned, the determination of power purchase cost for FY 2024-25 suffers from the following additional errors:
- (i) **Issue with short term Power purchase:** It is stated that at paragraph 4.4.24 of the MYT this Hon'ble Commission has observed that *"till October 2024, MSEDCL has procured 1189.92 MUs at an average rate of Rs. 4.91 per kWh which is under the ceiling tariff of Rs. 7.90 per kWh for FY 2024-25 in Case No. 190 of 2023."* In spite of this, Hon'ble Commission has considered short term power purchase quantum as 1097 MUs. Hon'ble Commission has also not considered power purchase quantum of MPEB which is about 4 MUs for Apr-24 to Sep-24.
  - (ii) **Issue of Technical Minimum in Model of FY2024-25:** As seen from this Hon'ble Commission's model for expected power purchase, monthly MOD projection without considering technical minimum requirements has resulted in no schedule for NTPC Solapur, Adani 1200, 125, 440 PPA, Parli 6/7,8, Bhusawal-3, Nashik 3-4-5, Uran, Kawas & Gandhar Gas Plant. Further, no short-term power purchase has been considered from Oct-24 to Mar-25, whereas power purchase from short term as well as IEX has been considered in FY25 to FY30.
  - (iii) **Issue of wrong VC for TAPP 1&2 units:** TAPP 1&2 units are under outage for fuel refuelling since 8<sup>th</sup> Jan 2020, which are not expected to

start before 30<sup>th</sup> July 2025 as per WRLDC website. MSEDCL has considered negative power purchase units (due to actual drawal by this NPCIL station, which is billed to MSEDCL) and hence no power purchase cost was considered by MSEDCL for Apr-2024 to Sep-2024 based on actual data. However, MSEDCL has inadvertently considered dispatch of 553 MUs at zero cost for Oct-24 to Mar-25 from TAPP 1&2 Units in the MYT Petition. Further, the same inadvertent error is also reflected in this Hon'ble Commission's model.

298. It is submitted that the aforementioned errors as well as the critical errors points above, viz., erroneous determination of AG sales, inconsistent distribution loss trajectory and error in power purchase modelling for FY 2024-25 by Hon'ble Commission, have unjustifiably reduced the power purchase quantum for the Review Petitioner by 11,531 MUs, ultimately resulting in a significant disallowance of approved power purchase expense by Rs. 6,057 Cr.

Further it is humbly submitted that the Provisional figures of FY 2024-25 for power purchase quantum and Power purchase cost is available with the petitioner and said figures are found to be in line with MSEDCL's projected figures given in MYT petition and same are summarised as under:

Financial Year	MYT Petition			Provisional Figures		
	Energy Purchase at bus bar (MU)	Total Cost (Rs. Crore)	Rate per unit of power procured (Rs./kWh)	Energy Purchase at bus bar (MU)	Total Cost (Rs. Crore)	Rate per unit of power procured (Rs./kWh)
FY 2024-25	1,68,448	84,286	5.00	167741.26	87029.56	5.19

299. It is further submitted that while this disallowance will have an immediate impact on the financial health and liquidity of the Review Petitioner, these disallowances will ultimately also lead to higher carrying cost in subsequent MTR process resulting in higher tariffs thereon, ultimately impacting the consumer in both short term as well as long term. MSEDCL accordingly requests Hon'ble Commission for allowing the Power Purchase Expense for FY 2024-25 as originally submitted by the MSEDCL.

#### ***XIV. Erroneous Energy Balance calculation in True-up period***

##### 300. Mismatch in AG Sales Figures for true up period

<b>Financial Year</b>	<b>Para/Table Reference</b>	<b>Particulars</b>	<b>AG Sales Figures (in MUs)</b>
<b>FY 2022-23</b>	Para 3.2.24	Approved AG Sales (Including DF)	28,758
	Table-22: Energy Balance	LT AG Sales (Including DF)	28,550
<b>FY 2023-24</b>	Para 3.2.57	Approved AG Sales (Including DF)	33,326
	Table-13: Sales	LT AG Sales (Excluding DF)	33,326
	Table-23: Energy Balance	LT AG Sales (Including DF)	33,137

- i. In FY 2022-23, different figures in Tariff Order are observed for LT AG Sales (Including DF) in AG sales index section (Para 3.2.24) and Energy Balance section (Table no. 22).
- ii. In FY 2023-24, same figures are mentioned for LT AG Sales Including DF & Excluding DF in AG Sales Index section (Para 3.2.57) and Sales Approved (Table no.13). Also, different figures for LT AG Sales (Including DF) are observed in AG sales index section (Para 3.2.57) and Energy Balance section (Table no. 23).
- iii. The figures for LT AG Sales (Including DF) differ across various references for both FY 2022-23 and FY 2023-24, indicating inconsistencies.

##### 301. Mismatch in Energy Balance Figures

<b>Financial Year</b>	<b>Para Reference</b>	<b>Sales Figures in Tariff Order</b>	<b>Sales Figures in Table-13 &amp; Form-1 of Model (MERC)</b>	<b>Remarks</b>
<b>FY 2022-23</b>	Table-22: Energy Balance	Sales (Including DF, Excluding EHV): 1,04,675 MUs  EHV Sales: 12,706 MUs  Total Sales: <b>1,17,381 MUs</b>	Total Sales (Including DF): <b>1,17,221 MUs</b>	Discrepancy of 160 MUs between the two sources

<b>FY 2023-24</b>	Table-23: Energy Balance	Sales (Including DF, Excluding EHV): 1,14,369 MUs  EHV Sales: 13,612 MUs  Total Sales: <b>1,27,981 MUs</b>	Total Sales (Including DF): <b>1,27,778 MUs</b>	Discrepancy of 203 MUs between the two sources
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- iv. There is a clear mismatch between the total sales figures reported in the Energy Balance (Table no. 22 and 23) in Tariff Order and the Model Form-1 for both fiscal years. This discrepancy leads to erroneous T&D Loss calculations.

### Concluding Submission

302. In view of the aforementioned facts and submissions, it is humbly submitted that the aforesaid errors apparent on the face of the record be corrected at this stage and the relevant findings of this Hon'ble Commission in the MYT Order be accordingly modified and rectified by this Hon'ble Commission, and the impact thereof be factored in the ARR and the tariff for the respective years.
303. It is further submitted that the MYT Order be kept in abeyance during the pendency of the instant Review Petition as the implementation of the MYT Order will adversely impact the viability and financial health of the Review Petitioner due to a significant under-recovery of tariff vis-à-vis the actual cost of supply. In this regard, it is submitted that the balance of convenience lies in favour of the Review Petitioner. The consumers of the Review Petitioner in the State of Maharashtra and the other beneficiaries would not at all be unduly burdened if the MYT Order is kept in abeyance during the pendency of the instant Review Petition.
304. Here, it is pertinent to highlight that this Hon'ble Commission, noting the aforementioned factors, has already vide its order dated 02.04.2025 passed in IA No. 42 of 2025 in Case No. 217 of 2024, stayed the MYT Order and the implementation thereof, and has directed that in the interim period, tariff approved for FY 2024-25 in earlier Tariff Order dated 31 March 2023 in Case No.

226 of 2022 shall remain applicable. It is humbly submitted that the aforementioned order and direction of this Hon'ble Commission may be continued pending till final adjudication of this Review Petition.

305. The Review Petitioner is left with no option but to file the present Review Petition. It is submitted that the Review Petitioner will suffer grave injustice if the MYT Order under review is not suitably modified. In light of the above submissions, it is humbly submitted that this Hon'ble Commission may please review and modify its MYT Order dated 28.03.2025.
306. It is submitted that this Hon'ble Commission has the requisite jurisdiction to grant reliefs as prayed for in the instant Review Petition by virtue of Section 94(1)(f) of the Electricity Act read with Regulation 28 of the MERC (Transaction of Business and Fees and Charges) Regulations, 2022. It is further submitted that the present Review Petition has been filed within the limitation period contemplated thereunder.
307. In addition to aforesaid, this Hon'ble Commission also has inherent powers, including under section 64(6) of Electricity Act, Regulations 39 and 40 of the Transaction of Business Regulations and Regulation 12.3 of the MYT Regulations, to suo-motu amend the tariff and correct any apparent errors in tariff. As such, it is humbly submitted that given the significant number of manifestly patent errors in the MYT Order, and the debilitating impact thereof on MSEDCL, the state utility's distribution business, which serves crores of consumers, this Hon'ble Commission is also urged to exercise its suo-motu powers and correct the said manifest and serious errors without any further delay.
308. The present Review Petition is being made bona fide and in the interest of justice.

**PRAYER**

In view of the facts and circumstances detailed hereinabove, it is most respectfully prayed that this Hon'ble Commission may be pleased to:

- a) allow the present Review Petition as stated above;
- b) modify the MYT Order dated 28.03.2025 under review in terms of the submissions made in this Review Petition, and the impact thereof be factored in the ARR and the tariff for the respective years;
- c) in the interim, the operation of the MYT Order be kept in abeyance till such time the instant Review Petition is decided by this Hon'ble Commission; and
- d) pass such other or further order(s) or direction(s) as this Hon'ble Commission may deem fit and proper in the facts and circumstances of the case.

**Authorised Signatory**

**For Maharashtra State Electricity Distribution Co. Ltd**

## **Link for Annexures to Review petition of 217 of 2024**

[https://drive.google.com/drive/folders/1loCVT3xUKDtesznLuN4qKlOHrDrO8xri?usp=drive link](https://drive.google.com/drive/folders/1loCVT3xUKDtesznLuN4qKlOHrDrO8xri?usp=drive_link)