



MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION SHILLONG

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Lower, Lachumiere, Shillong, Meghalaya 793001

Order on Case No. 35 of 2023

Petition of the Meghalaya Power Transmission Corporation Ltd for approval of True Up of Transmission Business for FY 2022-23.

Coram

Shri. Chandan Kumar Mondol, Chairman

Shri. Ramesh Kumar Soni, Member (Law)

Petitioner:

Meghalaya Power Transmission Corporation Ltd. (MePTCL)

Lum Jingshai, Short Round Road,
Shillong – 793 001

Order

(Dated: 18.10.2024)

The Government of Meghalaya has notified the Power Sector Reforms Transfer Scheme 2010, leading to restructuring, and unbundling of erstwhile Meghalaya State Electricity Board (MeSEB) into four entities. Accordingly, Meghalaya Power Transmission Corporation Limited (MePTCL) has started functioning as a segregated commercial operation utility independently for power transmission in the state of Meghalaya with effect from 1st April 2013.

This Commission, in exercise of the powers vested in it under Sections 61 and 62 of the Electricity Act (EA), 2003 and all other powers enabling it in this behalf, and after taking into consideration the submissions made by MePTCL, suggestions/objections received from the stakeholders upon public consultation process, and upon considering all other relevant

material herein, has already issued Order for the true-up of Transmission Business for FY 2021-22 dated 13.11.2023.

This Commission in exercise of its functions vested vide Regulation 16 of MSERC Multi Year Tariff Regulations, 2014 being read along with its subsequent amendments had approved Aggregate Revenue Requirement (ARR) & Transmission Tariff for FY 2022-23 vide Tariff Order dated 25.03.2022.

Further in accordance with the applicable regulatory provisions set out vide regulation 14 of the MSERC Multi Year Tariff Regulations, 2014 being read along with its subsequent amendments specifies the following:

"The Generating Company or Transmission Licensee or Distribution Licensee shall file an Application for Truing up of the previous year and determination of tariff for the ensuing year, within the time limit specified in these Regulations."

The Petitioner herein being MePTCL, has filed a Petition for Truing up of Transmission Business for FY 2022-23 & Aggregate Revenue Requirement for FY 2024-25 to FY 2026-27 and the Transmission and SLDC Tariff for FY 2024-25 on 29th November 2023.

This Commission had admitted the Petition provisionally on 01.12.2023, with a direction to MePTCL that an abstract of the Petition should be published in two consecutive issues in local dailies in Khasi, Jaintia, Garo and English. The Petitions were registered as under:

- MSERC Case No. 31/2023: MYT for Fourth Control Period FY 2024-25 to FY 2026-27 for MePTCL and Determination of Tariff for the FY 2024-25 of MePTCL.
- MSERC Case No. 33/2023: MYT for Fourth Control Period FY 2024-25 to FY 2026-27 for SLDC.
- MSERC Case No. 35/2023: Truing up of Transmission Business for FY 2022-23.

The Commission shall undertake true-up of the previous year's expenses and revenue considered with reference to Audited Statement of Accounts made available subject to prudence check including pass through of impact of uncontrollable factors (if any).

Further, this Commission taking into consideration of all the facts and additional information/data and prudence check as per the Regulations with reference to the audited annual accounts, after hearing the Petitioner and Stakeholders, approves true up of transmission business for FY 2022-23 in the detailed analysis annexed to this order.

This Commission also notifies that the impact of true up gap/ surplus shall be appropriated in the next Tariff Order.

Sd/-

Ramesh Kumar Soni,
Member (Law)

Sd/-

Chandan Kumar Mondol,
Chairman

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1. Background and Brief History

1.1. Background

- 1.1.1. The power transmission in the state of Meghalaya is carried out by Meghalaya Power Transmission Corporation Limited (MePTCL), a wholly owned subsidiary of Meghalaya Energy Corporation Limited (MeECL).
- 1.1.2. The Power Supply Industry in the state of Meghalaya has been under the governance of erstwhile Meghalaya State Electricity board (MeSEB) since 21st January 1975. The Government of Meghalaya has notified the Power Sector Reforms Transfer Scheme 2010, leading to restructuring, and unbundling of erstwhile Meghalaya State Electricity Board (MeSEB) into four entities. After notification of amendment to the Power Sector Reforms Transfer Scheme by the State Government on 1st April 2012, the un-bundling of MeECL into MePDCL, MePGCL and MePTCL came into effect.
- 1.1.3. Accordingly, Meghalaya Power Transmission Corporation Limited (MePTCL) (*herein referred to as "Petitioner"*) has started functioning as a segregated commercial operation utility independently for power transmission in the state of Meghalaya with effect from 1st April 2013.
- 1.1.4. The MSERC (*herein referred as "Commission"*) is an independent statutory body constituted under the provisions of the Electricity Regulatory Commissions (ERC) Act, 1998, which was superseded by Electricity Act (EA), 2003. The Commission is vested with the authority of regulating the power sector in the State inter alia including determination of tariff for electricity consumers.
- 1.1.5. In exercise of the powers vested vide Regulation 16 of MSERC Multi Year Tariff Regulations, 2014, the Commission had approved Aggregate Revenue Requirement (ARR) & Transmission Tariff for FY 2021-22 vide Tariff Order dated 25.03.2021.

1.2. Facts about this Case

- 1.2.1. The Petitioner, in compliance with the Regulation 11.2 of the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulation, 2014 along with its subsequent amendments has filed its application for Trueing Up of Transmission Business for FY 2022-23 dated 29.11.2023.
- 1.2.2. This Commission dated 01.12.2023 had admitted the Petition provisionally directing MePTCL to publish abstract of the Petition in two consecutive issues in local dailies in Khasi, Jaintia, Garo and English.
- 1.2.3. Subsequently on 07.12.2023 and 08.12.2023 abstract of the Petition were published in The Shillong Times- Shillong Edition, U Nongsain Hima and Salantini Janera, inviting objections/suggestions from stakeholders within 30 (thirty) days from the date of publication.

- 1.2.4. This Commission on 22.02.2024 and 23.02.2024 published notices for Public Hearing in the daily locals viz Shillong Times, Shillong & Tura Edition, Nongsain Hima and Salantini Janera.
- 1.2.5. On 19.03.2024, in compliance of the due regulatory procedures public hearing of the submitted application for Trueing Up of Transmission Business for FY 2022-23 dated 29.11.2023 was conducted including the Petitioner and the stakeholders.
- 1.2.6. This Commission had received objections/suggestions from BIA during the process of evaluating the submitted application for Trueing Up of Transmission Business for FY 2022-23 dated 29.11.2023. The Petitioner has accordingly submitted its replies / responses to the issues raised by the stakeholders during the process which has been noted by this Commission.
- 1.2.7. Subsequently, due to the pronouncement of model code of conduct on account of the Lok Sabha Elections, issuance of Orders of the subject matter was upheld. The Commission dated 05.06.2024 issued the Order for Truing Up of Transmission Business for FY 2022-23.
- 1.2.8. Subsequently, on 01.08.2024 in pursuant to the Order dated 23.07.2024 of the Hon'ble High Court of Meghalaya in WP(C) 217 of 2024, this Commission admitted the application for rehearing of the Petition and notice for rehearing of the application for Truing Up of Transmission Business for FY 2022-23 were issued.
- 1.2.9. On 23.08.2024, the Commission had recalled its earlier True Up Order for MePTCL for the year FY 2022-23.
- 1.2.10. On 03.09.2024, this Commission again issued publication of notice for rehearing of the application for Truing Up of Transmission Business for FY 2022-23.
- 1.2.11. On 03.10.2024, due consultative process was followed through public rehearing of the Petition for Truing Up of Transmission Business for FY 2022-23. The Petitioner and the stakeholders were directed to furnish a written submission of their oral submission.
- 1.2.12. This Commission has accordingly noted all replies / responses received within due date of 09.10.2024 from the Petitioner and the Stakeholders raised during the public consultation process. The Commission's analysis and ruling thereon are elaborated in the following sections.
- 1.2.13. Further, Regulation 11.5 of the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulation, 2014 stipulates the following:

"11.5 The scope of the truing up shall be a comparison of the performance of the Generating Company or Transmission Licensee or Distribution Licensee

with the approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges and shall comprise of the following:

- a) a comparison of the audited performance of the applicant for the previous financial year with the approved forecast for such previous financial year, subject to the prudence check including pass-through of impact of uncontrollable factors;*
- b) Review of compliance with directives issued by the Commission from time to time;*
- c) Other relevant details, if any."*

- 1.2.14. Further, the apportionment of MeECL expenses shall be regulated as per the Commission's previous notifications and directives subject to prudence check.

2. *Suggestions/Objections Received, Response of MePTCL*

- 2.1.1. Objections/Suggestions received from various stakeholders has been placed under **Annexure-1**.

3. True Up of Transmission Business for FY 2022-23 for MePTCL.

3.1. Performance Highlights

Petitioner's Submission

3.1.1. MePTCL has submitted that there has been substantial growth in terms of the infrastructure and there has been substantial increase in the infrastructure which shows MePTCL's commitment to improve the performance and cater to the growing demand of the consumers in an efficient manner.

3.1.2. The key physical achievements submitted by MePTCL are highlighted below:

Table 1: Network Details of MePTCL for FY 2022-23

Substation (in MVA)		
	FY 2021-22	FY 2022-23
400 KV	630	630
220 KV	520	520
132 KV	640	640
Total	1790	1790

No. of Substation Bays		
	FY 2021-22	FY 2022-23
400 KV	6	6
220 KV	12	12
132 KV	106	106
33 KV	76	76
Total	200	200

Transmission Lines (in Ckm)		
	FY 2021-22	FY 2022-23
400 KV	4.648	4.648
220 KV	226.84	226.84
132 KV S/C	519.82	538.72
132 KV D/C	708.844	708.844
132 KV M/C	15.96	15.96
Total	1476.112	1495.012

3.1.3. Further, the Transmission System Availability Factor and Transmission loss for past five years including the FY 2022-23 as submitted by the Petitioner is tabulated below:

Table 2: Network Details of MePTCL for FY 2022-23

	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
Transmission System Availability (%)	99.69	99.66	98.65	99.35	99.22
Transmission Loss (%)	4.08	3.78	3.49	3.01	3.16

- 3.1.4. The Petitioner has prayed to approve the Transmission System Availability Factor of 99.22% and Transmission Loss of 3.16% for FY 2022-23.

Commission's Analysis

- 3.1.5. The Commission notes MePTCL's submission in terms of Physical Performance highlights. Also notes that there has been marginal increase in terms of line length during FY 2022-23. Further, the Petitioner shall constantly strive to put in efforts to enhance its overall transmission system towards benefit of all stakeholders.

3.2. Gross Fixed Assets

Petitioner's Submission

- 3.2.1. MePTCL has made its submissions considering the opening Gross Fixed Assets in line with the Order issued dated 21.11.2023 in Case No. 02 of 2023 for Truing Up of Expenses of Transmission Business for FY 2021-22. The addition and deletion have been considered as per actuals as per the audited statement of accounts.

Table 3: Gross Fixed Assets of MePTCL for FY 2022-23*(Amounts in Rs. Crores)*

Particulars	Amount
Opening Gross Fixed Assets	508.48
Addition to Gross Fixed Assets during the year	36.96
Deletion to Gross Fixed Assets during the year	0.02
Closing Gross Fixed Assets	545.42

Commission's Analysis

- 3.2.2. The Petitioner has reported its asset class wise GFA vide Note 2 of the audited annual accounts for FY 2022-23 along with its submissions.
- 3.2.3. The Commission considers the Opening GFA for FY 2022-23 in line with its approved closing GFA for FY 2021-22. Further, based on the reported GFA additions and deletions during the year vide its audited annual accounts, the commission has arrived at the closing GFA for FY 2022-23.

- 3.2.4. Based on the above, the Commission determined the Capital Structuring of the Utility for FY 2022-23 as depicted below:

Table 4: Approved Capital Structure of MePTCL for FY 2022-23

(Amounts in Rs. Crores)

Particulars	Amount
Opening Gross Fixed Assets	508.47
Addition to Gross Fixed Assets during the year	36.96
Deletion to Gross Fixed Assets during the year	0.02
Closing Gross Fixed Assets	545.41

3.3. Grant Adjustment and Funding Pattern

Commission's Analysis

- 3.3.1. As per the extant MSERC MYT Tariff Regulations 2014, any grant obtained for execution of the project shall not be considered for the purpose of computation of the capital structure for calculation of Debt & Equity and there after Depreciation & Return on Equity.
- 3.3.2. In this regard, Commission had asked the petitioner to share the audited certificated of actual year wise grant received and the utilization thereof across various projects under the heads of GFA and CWIP along with a detailed amortization schedule of the capitalized grants on a yearly basis, to ensure that the components of the tariff structure can be determined more transparently and unambiguously.
- 3.3.3. In response to the above requirement of the Commission, the petitioner has only been able to submit their estimate of the grant utilization in the additional capitalization executed in the current year under consideration i.e. for FY 2022-23.
- 3.3.4. Due to lack of additional data at this stage with the Commission to ascertain the exact amount of grant across each of the operational projects, for the current context Commission has decide to follow the following principle to determine the tariff components:

Step-1: Opening Grant:

For individual projects that have been commissioned, the Commission has taken the opening grant for the current year i.e. FY 2022-23 as the closing grant considered by Commission in its True up order for FY 2021-22, subject to a maximum of the closing GFA for the respective project as has been approved by Commission in its True up order for FY 2022-23.

Step-2: Additional Grant Capitalization:

The current year addition of grant through additional capitalization, has been considered to be equivalent to what has been submitted by Petitioner as part of additional submission, with the restriction that the net depreciation (i.e., post adjustment of yearly Grant amortization value from the yearly gross depreciation value calculated considering the total GFA) is never negative.

Step-3: Closing Grant:

The Closing value of capitalized grant in individual commissioned asset is calculated by adding the opening grant as considered in step-1 & additional grant as considered in step-2 above.

Step-4: Additional Debt & Equity Capitalization:

The balance amount of additional capitalization in the present year after adjustment of the current year additional grant capitalization, shall be split into debt and in the ratio of 70% & 30% respectively.

Table 5: Grant adjustment and funding pattern for FY 2022-23

(Amounts in Rs. Crores)

Sl. No	Funding Pattern	True-up of FY 2021-22 (Approved)	True-up of FY 2022-23 (Approved)
1	Opening GFA	462.93	508.47
2	Addition of GFA	45.53	36.96
3	Deletion of GFA	0.0097	0.02
4	Closing GFA	508.47	545.41
5	Average GFA	485.70	526.94
6	Opening Grant	84.61	89.26
7	Add-cap funded through grant		32.50
8	Closing Grant	89.26	121.76
9	Average Grant	86.94	105.51
10	Addition of fresh loan for current year add-cap		3.12
11	Addition of fresh equity for current year add-cap		1.34

3.3.5. Accordingly, this Commission considers Rs. 105.51 Crores as the average grant for FY 2022-23.

3.4. Return on Equity

Petitioner's Submission

3.4.1. MePTCL has submitted that the return on equity has been calculated in line with the provisions of Regulation 27 of the 2014 Tariff Regulations and the capital structure presented above. The calculation of Return on Equity is tabulated below:

Table 6: Return on Equity Claimed by MePTCL for FY 2022-23

(Amounts in Rs. Crores)

Particulars	Amount
Opening Equity	133.71
Closing Equity	134.70
Average Equity	134.20
Rate of Return on Equity	14.00%
Return on Equity	18.79

Commission's Analysis

- 3.4.2. The Commission notes that Regulation 27 of the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulation, 2014 states the following:

"27 Debt-Equity Ratio

27.1 For a project declared under commercial operation on or after 1.4.2015, if the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan;

Provided that where equity actually deployed is less than 30% of the capital cost, the actual equity shall be considered for determination of tariff.

Provided further that equity invested in foreign currency shall be designated in Indian rupees on the date of each investment.

Provided any grant obtained for execution of the project shall not be considered as a part of capital structure for the purpose of debt-equity ratio.

....."

<Emphasis added>

- 3.4.3. Further, Regulation 31 of the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulation, 2014 states the following:

".....

31.1 Return on equity shall be computed on the equity base determined in accordance with regulation 27 and shall not exceed 14%.

Provided that in case of generation & transmission projects commissioned after notification of these regulations, an additional return of 0.5 % shall be allowed if such projects are completed within the time line as specified in CERC Tariff Regulations.

....."

<Emphasis added>

- 3.4.4. Considering the above Regulatory provisions, the commission considers Average Grants and contribution at Rs. 105.51 Crore for True up of FY 2022-23. Commission considers the Return on Equity as per the Regulation 31.1 of the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulation, 2014 considering the Govt. Grants and contributions as depicted below.

Table 7: Approved Return on Equity of MePTCL for FY 2022-23*(Amounts in Rs. Crores)*

Particulars	Amount
Opening GFA as on 01.04.2022	508.47
Addition to GFA during the Year	36.96
Deletion from GFA during the Year	0.02
Closing GFA as on 31.03.2024	545.41
Average GFA for FY 2022-23	526.94
Average Grants for FY 2022-23	105.91
Net Average Capital Assets for FY 2022-23 (not funded through Grants)	421.43
Debt @70% of Capital Assets	295.00
Equity @30% of Capital Assets	123.43
Rate of Return on Equity	14.00%
Return on Equity	17.70

- 3.4.5. The Commission accordingly approves Return on Equity of Rs. 17.70 Crores for MePTCL for Trueing Up of FY 2022-23.

3.5. Depreciation**Petitioner's Submission**

- 3.5.1. MePTCL has submitted that depreciation has been computed as per the methodology adopted by Commission in the previous true ups. Further the opening balance of GFA has been considered as per the GFA approved by Hon'ble Commission in the order dated 21.11.2023 in Case No. 01 of 2023 in true up of 2021-22. The calculation of depreciation is tabulated below:

Table 8: Computation of Depreciation for FY 2022-23*(Amounts in Rs. Crores)*

Asset Description	Opening Balance	Addition during the year	Retirement during the year	Closing Balance	Rate of Depreciation	Depreciation during the year
Land	9.75	2.41	0.02	12.14	0.00%	0.00

Asset Description	Opening Balance	Addition during the year	Retirement during the year	Closing Balance	Rate of Depreciation	Depreciation during the year
Buildings	17.88	0.53	0.00	18.41	3.34%	0.61
Plant and Equipment	153.84	16.15	0.00	169.99	5.28%	8.55
Furniture and Fixtures	0.98	0.00	0.00	0.98	6.33%	0.06
Vehicles	0.22	0.00	0.00	0.22	9.50%	0.02
Office Equipment	7.16	0.16	0.00	7.31	6.33%	0.46
Hydraulic Works	0.09	0.00	0.00	0.09	5.28%	0.00
Other Civil Works	12.92	0.00	0.00	12.92	3.34%	0.43
Lines and Cable Works	305.65	17.71	0.00	323.36	5.28%	10.61
Total	508.47	36.96	0.02	545.41		26.74
Rate of Depreciation						4.90%
Average Grants in GFA						79.60
Depreciation on Grants						3.90
Net Depreciation						22.84

3.5.2. MePTCL has prayed to allow the depreciation of Rs.22.84 Cr as detailed above for FY 2022-23.

Commission's Analysis

3.5.3. The Commission notes that Regulation 33 of the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulation, 2014 states the following:

"33 Depreciation

33.1 For the purpose of tariff determination, depreciation shall be computed in the following manner:

a) The asset value for the purpose of depreciation shall be the historical cost of the assets as approved by the Commission where:

The opening asset's value recorded in the Balance Sheet as per the Transfer Scheme Notification shall be deemed to have been approved, subject to such modifications as may be found necessary upon audit of the accounts, if such a Balance Sheet is not audited. Consumer contribution or capital subsidy/ grant etc shall be excluded from the asset value for the purpose of depreciation.

b) For new assets, the approved/accepted cost for the asset value shall include foreign currency funding converted to equivalent rupee at the

exchange rate prevalent on the date of foreign currency actually availed but not later than the date of commercial operation.

c) The salvage value of the assets shall be considered at 10% and depreciation shall be allowed upto maximum of 90 % of the capital cost of the asset.

d) Depreciation shall be calculated annually as per straight-line method at the rates specified in CERC (Terms and Conditions of Tariff) Regulations, 2009 as may be amended from time to time.

Provided that land is not a depreciable asset and its cost shall be excluded from the capital cost while computing the historical cost of the asset.

e) Depreciation shall be chargeable from the first year of operation. In case of operation of the asset for part of the year, depreciation shall be charged on pro-rata basis.

f) The remaining depreciable value as on 31st March of the year closing after a period of 12 years from the date of commercial operation shall be spread over the balance useful life of the asset.”

<Emphasis added>

- 3.5.4. This Commission while computing depreciation for FY 2022-23 has considered GFA and Grants in line with the aforementioned provisions as per MSERC MYT Regulations 2014.
- 3.5.5. The depreciation as per Regulations is computed for True up as depicted in the table below:

Table 9: Approved Depreciation for FY 2022-23*(Amounts in Rs. Crores)*

Asset Description	Opening Balance	Addition during the year	Retirement during the year	Closing Balance	Average GFA	90% of GFA	Rate of Depreciation	Depreciation during the year
Land	9.75	2.41	0.02	12.14	10.94	9.85	0.00%	0.00
Buildings	17.88	0.53	0.00	18.41	18.15	16.33	3.34%	0.55
Plant and Equipment	153.84	16.15	0.00	169.99	161.91	145.72	5.28%	7.69
Furniture and Fixtures	0.98	0.00	0.00	0.98	0.98	0.88	6.33%	0.06
Vehicles	0.22	0.00	0.00	0.22	0.22	0.20	9.50%	0.02
Office Equipment	7.16	0.16	0.00	7.31	7.23	6.51	6.33%	0.41
Hydraulic Works	0.09	0.00	0.00	0.09	0.09	0.08	5.28%	0.00
Other Civil Works	12.92	0.00	0.00	12.92	12.92	11.63	3.34%	0.39
Lines and Cable Works	305.65	17.71	0.00	323.36	314.50	283.05	5.28%	14.95
Total	508.47	36.96	0.02	545.41	526.94	474.24		24.06
Average GFA					526.94			
Rate of Depreciation							5.07%	
Opening Grant for the Year	89.26							
Grants Capitalized during the Year		32.50						
Closing Grant for the Year				121.76				
Average Grants in GFA					105.51			
90% of Grants for the year					94.96			
Less: Depreciation on Grants								4.82
Net Depreciation for the year								19.25
(+) 1/3rd Depreciation on MeECL assets								00.00
Net depreciation allowed for FY 2022-23								19.25

- 3.5.6. **In consideration of the above, this Commission approves Depreciation of Rs. 19.25 Crores for True-up of Transmission Business for FY 2022-23.**

3.6. Interest and Finance Charges

Petitioner's Submission

- 3.6.1. MePTCL has submitted that Interest on loan has been computed as per the provisions of Regulations 27 and Regulation 32 of the 2014 Tariff Regulations. The weighted average rate of interest has been computed on the actual loans running as tabulated below:

Table 10: Computation of Weighted Average Rate of Interest

(Amounts in Rs. Crores)

Name of Loan	Opening Loan	Closing Loan	Average Loan	Interest Paid During 2022-23	Net Interest	Rate of Interest (%)
REC Killing - Byrnihat Loan	7.21	5.87	6.54	0.71	0.71	10.86%

Table 11: Calculation of Interest on Loan

(Amounts in Rs. Crores)

Particulars	Amount
Opening Normative Loan	261.21
Addition in Loan	2.31
Repayment	1.34
Closing Normative Loan	262.18
Average loan	261.69
Weighted Average Rate of Interest	10.86%
Interest on Loan	28.43

Commission's Analysis

- 3.6.2. The Commission notes that Regulation 32 of the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulation, 2014 states the following:

"32 Interest and finance charges on loan capital

*32.1 Interest and finance charges on loan capital shall be **computed on the outstanding loans, duly taking into account the schedule of loan repayment, terms and conditions of loan agreements, bond or debenture and the lending rate specified therein.***

*Provided that the **outstanding loan capital shall be adjusted to make it consistent with the loan amount determined in accordance with regulation 27.***

.....”

<Emphasis added>

- 3.6.3. This Commission notes that the interest on normative loan in excess of 30% shall not be admissible, where the Debt Equity computation (70:30) is arrived as per the Regulation 27 of the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulation, 2014 after deducting the Grants and contributions.
- 3.6.4. Further, the outstanding loan capital shall be considered as approved in the last True up orders for FY 2021-22.
- 3.6.5. Considering the above Regulatory provisions, the commission considers the opening balance for FY 2022-23, computed the interest on loan capital outstanding for True up of 2022-23 as depicted in the table below:

Table 12: Computation of Weighted Average Rate of Interest for FY 2022-23

(Amounts in Rs. Crores)

Particulars	REC Killing - Byrnihat Loan	State Government Loan	Total	Weighted Average rate of Interest (%)
Opening Balance of Loan	7.21	42.19	49.40	9.00%
Addition of Loan during the year	0.00	0.00	0.00	
Repayment of loan during the year	1.34	0.00	1.34	
Closing Balance of Loan	5.87	42.19	48.06	
Average Loan	6.54	42.19	48.73	
Interest Payable	0.71	3.67	4.38	

Table 13: Approved Interest on Loan for FY 2022-23

(Amounts in Rs. Crores)

Particulars	Amount
Opening Net Normative Loan	24.10
Addition in Loan	3.12
Repayment	19.25
Net Normative Loan Closing	7.98
Average loan	16.04

Particulars	Amount
Weighted Average Rate of Interest (%)	9.00%
Interest on Loan	1.44

- 3.6.6. **The Commission accordingly approves Rs. 1.44 Crores towards Interest and Finance Charges for FY 2022-23.**

3.7. Operation and Maintenance Expenses

Petitioner's Submission

- 3.7.1. MePTCL has submitted that as per the settled practice followed by Commission in the past, the operation and maintenance expenses have been claimed as per the audited accounts of FY 2022-23. The details of operation and maintenance expenses are tabulated:

a. Employee Expenses

- 3.7.2. MEPTCL has claimed Employee expenses as per the audited accounts. Further, the actuarial valuation for the FY 2022-23 has already been done and the terminal benefits have been accounted in the accounts as per the same:

Table 14: Employee Expenses Claimed for FY 2022-23

(Amounts in Rs. Crores)

Particulars	Amount
Salaries and Wages	34.60
Gratuity Expenses	1.67
Leave Encashment Expenses	6.21
Pension Expenses	12.27
Contribution to Provident Fund	1.46
Apportionment of Employee Benefit of Holding Company	11.92
Total Employee Expenses of MePTCL	68.13
1/3rd of the Employee Expenses of MeECL	1.62
Total Employee Expenses	69.75

- 3.7.3. MePTCL has requested the Commission to allow the employee expenses of Rs. 69.75 Cr for FY 2022-23.

b. Renovation & Modernization (R&M) Expenses

- 3.7.4. MEPTCL has claimed R&M expenses as per the audited accounts. Further, the MeECL expenses have been apportioned in the three companies in equal proportion as depicted below:

Table 15: R&M Expenses Claimed for FY 2022-23*(Amounts in Rs. Crores)*

Particulars	Amount
R&M Expenses Buildings	0.04
R&M Expenses Plant and Machinery	0.32
R&M Civil Works	0.03
R&M Lines and Cables	4.25
R&M Vehicles	0.01
R&M Furniture's and Fixtures	0.00
R&M Office Equipment	0.77
Total R&M Expenses	5.42
1/3 of R&M Expenses of MeECL	0.34
Total R&M Expenses	5.76

- 3.7.1. MePTCL has requested the Commission to allow the R&M expenses of Rs. 5.76 Cr for FY 2022-23.

c. Administrative & General (A&G) Expenses

- 3.7.2. MEPTCL has claimed A&G expenses as per the audited accounts. Further, the MeECL expenses have been apportioned in the three companies in equal proportion. Further, submits that the A&G expenses of MeECL also includes the penalty of Rs.1.21 Cr which has been excluded from the claim as depicted below:

Table 16: A&G Expenses claimed for FY 2022-23*(Amounts in Rs. Crores)*

Particulars	Amount
Insurance Charges	0.71
Rent, Rates and Taxes	0.00
Telegram, Postage, Telegraph and Telex charges	0.06
Training, conveyance and vehicle running expenses	1.23
Printing and stationery expenses	0.03
Auditors' remuneration	0.04
Books & Periodicals	0.00
Advertisement charges	0.00
Technical Fees	0.00

Particulars	Amount
Legal and professional charges	0.08
Meghalaya State Electricity Regulatory Commission (MSERC) Fees	0.06
Bank Charges	0.00
Miscellaneous expenses	0.01
Electricity Charges	0.69
GST Expenses	0.01
ROC Charges	0.01
Staff Advance written off	0.00
POC Rebate	0.00
Excess Interest on FD	0.00
Total A&G Expenses	2.93
1/3rd of A&G Expenses of MeECL	0.61
Total A&G Expenses	3.54

- 3.7.3. MePTCL has requested Commission to allow the A&G expenses of Rs.3.54 Cr for FY 2022-23.

Commission's Analysis

- 3.7.4. The Commission notes that Regulation 69 of the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulation, 2014 states the following:

"69 Operation and Maintenance Expenses

69.1 Operation and Maintenance Expenses or O&M Expenses shall mean the total of all expenditure under the following heads:-

(a) Employee Cost

(b) Repairs and Maintenance

(c) Administration and General Expenses.

69.2 The Licensee shall submit O&M expenses budget indicating the expenditure under each head of account showing actual of the last financial year, estimates for the current year and projections for the next financial year.

69.3 The norms for O&M expenses on the basis of circuit kilometers of transmission lines, transformation capacity and number of bays in substations shall be submitted for approval of the Commission.

....."

<Emphasis added>

a. Employee Expenses

- 3.7.5. Commission considers the Employee expenses are admissible as claimed by the petitioner for True up of FY 2022-23 as depicted in the table below:

Table 17: Employee Expenses approved for FY 2022-23*(Amounts in Rs. Crores)*

Particulars	Amount
Salaries and Wages	34.60
Gratuity Expenses	1.67
Leave Encashment Expenses	6.21
Pension Expenses	12.27
Contribution to Provident Fund	1.46
Apportionment of Employee Benefit of Holding Company	11.92
Total Employee Expenses of MePTCL	68.13
1/3rd of the Employee Expenses of MeECL	1.62
Total Employee Expenses	69.75

b. Renovation & Modernization (R&M) Expenses

- 3.7.6. Commission considers that the R&M expenses are admissible as claimed by the petitioner for True up of FY 2022-23 as depicted in the table below:

Table 18: R&M Expenses approved for FY 2022-23*(Amounts in Rs. Crores)*

Particulars	Amount
R&M Expenses Buildings	0.04
R&M Expenses Plant and Machinery	0.32
R&M Civil Works	0.03
R&M Lines and Cables	4.25
R&M Vehicles	0.01
R&M Furniture's and Fixtures	0.00
R&M Office Equipment	0.77
Total R&M Expenses	5.42
1/3 of R&M Expenses of MeECL	0.34
Total R&M Expenses	5.76

d. Administrative & General (A&G) Expenses

- 3.7.7. Commission considers that the A&G expenses are admissible as claimed by the petitioner for True up of FY 2022-23 as depicted in the table below:

Table 19: A&G Expenses approved for FY 2022-23*(Amounts in Rs. Crores)*

Particulars	Amount
Insurance Charges	0.71
Rent, Rates and Taxes	0.00
Telegram, Postage, Telegraph and Telex charges	0.06
Training, conveyance and vehicle running expenses	1.23
Printing and stationery expenses	0.03
Auditors' remuneration	0.04
Books & Periodicals	0.00
Advertisement charges	0.00
Technical Fees	0.00
Legal and professional charges	0.08
Meghalaya State Electricity Regulatory Commission (MSERC) Fees	0.06
Bank Charges	0.00
Miscellaneous expenses	0.01
Electricity Charges	0.69
GST Expenses	0.01
ROC Charges	0.01
Staff Advance written off	0.00
POC Rebate	0.00
Excess Interest on FD	0.00
Total A&G Expenses	2.93
1/3rd of A&G Expenses of MeECL	0.61
Total A&G Expenses	3.54

- 3.7.8. Based on the above, the summary of the total O&M expenses including apportionable portion of O&M expenses of for MeECL are depicted below:

Table 20: Total O&M Expenses approved for FY 2022-23*(Amounts in Rs. Crores)*

Particulars	MePTCL	1/3rd MeECL	Total
Employee cost	68.13	1.62	69.75
R&M Expenses	5.42	0.34	5.76
A&G expenses	2.93	0.61	3.54
Total O&M expenses	76.48	2.57	79.05

- 3.7.9. **This Commission approves Rs. 79.05 Crores towards O&M Expenses for True Up of FY 2022-23.**

3.8. Interest on Working Capital

Petitioner's Submission

- 3.8.1. MePTCL has submitted that Regulation 34.3 of the 2014 Tariff Regulation details out the methodology of the computation of the Interest on Working Capital for Transmission business.
- 3.8.2. The Petitioner has considered the State Bank of India Advance Rate as on 01.04.2022 has been considered for the purpose of computation of the interest on working capital. In line with the provisions of the above Regulations MePTCL has computed the interest on working capital which is tabulated below:

Table 21: Computation of Interest on Working Capital for FY 2022-23*(Amounts in Rs. Crores)*

Particulars	Amount
Operation and Maintenance Exp for 2 Months	13.17
1% Maintenance spares on opening GFA escalated at 6%	5.18
Receivables for 2 months of ATC	25.47
Total Working Capital Requirement	43.82
Rate of Interest on Working Capital	12.30%
Interest on Working Capital	5.39

- 3.8.3. MePTCL has requested the Commission to allow the interest on working capital as Rs. 5.39 Cr. for the FY 2022-23.

Commission's Analysis

- 3.8.4. The Commission notes that Regulation 34.2 of the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulation, 2014 states the following:

"34.2 Transmission:

(i) The Transmission Licensee shall be allowed interest on the estimated level of working capital for the financial year, computed as follows:

- a) Operation and maintenance expenses for one month; plus*
- b) Maintenance spares at one (1) per cent of the historical cost escalated at 6% from the date of commercial operation; plus*
- c) Receivables equivalent to two (2) month of transmission charges calculated on target availability level;*

Interest on working capital shall be allowed at a rate equal to the State Bank Advance Rate (SBAR) as on 1st April of the financial year in which the Petition is filed.

<Emphasis added>

- 3.8.5. In consideration of the aforementioned Regulatory provisions, Commission considers computation of interest on working capital as depicted in the table below:

Table 22: Approved Interest on Working Capital for FY 2022-23

(Amounts in Rs. Crores)

Particulars	Amount
Operation and Maintenance Exp for one month	6.59
Maintenance Spares (1% historical cost escalated at 6%)	5.39
Receivables for 2 months of ATC	18.19
Total Working Capital Requirement	30.16
Rate of Interest on Working Capital	12.30%
Interest on Working Capital	3.71

- 3.8.6. This Commission approves Interest on Working Capital at Rs. 3.71 Crore for True up of FY 2022-23.

3.9. SLDC Charges**Petitioner's Submission**

- 3.9.1. MePTCL has claimed SLDC Charges of Rs. 1.47 Crores vide Table 15 of the submitted Petition.

Commission's Analysis

- 3.9.2. The Commission after due reconciliation of the audited annual accounts for FY 2022-23 submitted by the Petitioner considers the claim of Rs. 1.47 Crores towards SLDC charges for FY 2022-23.

3.10. Non-Tariff Income**Petitioner's Submission**

- 3.10.1. MePTCL has submitted that the non-tariff income has been claimed as per the statement of accounts with certain exclusions as explained out in Chapter 2.6. The details of the Non-Tariff Income for FY 2022-23 is tabulated below:

Table 23: Details of Non-Tariff Income claimed for FY 2022-23

(Amounts in Rs. Crores)

Particulars	Amount
Interest Income from Banks	0.79
Interest Income from Banks Others	0.00
Scrap Sales	0.00
AMC Charges	0.69
Rental and Hiring Income	0.14
Discount Received	0.00
Fees and Penalties	0.16
Sale of Tender Forms	0.01
Misc. Receipts	0.20
Total	1.99
Non-Tariff Income of MeECL (1/3)	3.16
Total Non-Tariff Income	5.16

- 3.10.2. MePTCL has requested Commission to allow the Non-Tariff Income as Rs.5.16 Cr for FY 2022-23.

Commission's Analysis

- 3.10.3. The Commission is of the view that the charges namely STU, Open Access Charges, SLDC Charges are basically integral part of Transmission business for FY 2022-23. Hence, the stated charges for the purpose of truing up are subsumed under the revenue from Transmission business for FY 2022-23.
- 3.10.4. Accordingly, the Commission after due reconciliation of the audited annual accounts for FY 2022-23 submitted by the Petitioner approves the Non-tariff Income for FY 2022-23.

Table 24: Approved Non-Tariff and Other Income for True up of FY 2022-23

(Amounts in Rs. Crores)

Particulars	Amount
A: Non-Tariff Income	
Interest Income (From Banks)	0.79
Scrap Sale	0.00
AMC Charges	0.69
Rental and hiring Income	0.14
Discount Received	0.00
Fees and Penalties	0.16
Sale of Tender forms	0.01
Miscellaneous receipts	0.20
Amortization of Grant	0.00
Sub-Total	1.99
B: Other Operating Revenue	
STU and Open Access Charges	0.00
SLDC Charges from MePGCL	0.00
SLDC Charges	0.00
Sub-Total	0.00
Total Other Income (MePTCL) (A+B)	1.99
1/3rd MeECL	3.16
Grand Total	5.16

3.10.5. Commission approves Non-Tariff and Other income at Rs. 5.16 Crore for True up of FY 2022-23.

3.11. Revenue from Transmission Business

Petitioner's Submission

3.11.1. MePTCL submitted that as per the settled methodology adopted by the Commission the Revenue from Sale of Power has been considered as per the audited statement of accounts.

Table 25: Details of Revenue from Transmission Business claimed for FY 2022-23

(Amounts in Rs. Crores)

Particular	Amount
Wheeling Charges	73.49
SLDC Charges from MePGCL	1.94
SLDC Charges from MePTCL	1.47
Total Revenue	76.90
Less: SLDC Charges from MePTCL	1.47

Particular	Amount
Net Revenue	75.43
STU Charges and Open Access Charges	2.93
SLDC Charges	0.36
Total Revenue	78.72

- 3.11.2. MePTCL requested Commission to approve the revenue for FY 2022-23 as Rs.78.72 Cr.

Commission's Analysis

- 3.11.3. Commission observed that MePTCL has reported Revenue from operations at Rs. 73.49 Crore.
- 3.11.4. It is also observed by the Commission that SLDC and Open Access and STU charges are covered in the Other Income vide Non-tariff Income of this Order. Accordingly, the Commission has computed the revenue from operations from Transmission business for FY 2022-23.

Table 26: Approved Revenue from Operations for FY 2022-23

(Amounts in Rs. Crores)

Particulars	Amount
Revenue from Operations of MePTCL (Note no.25 of audited annual accounts)	73.49

- 3.11.5. **This Commission approves Revenue from Operations at Rs. 73.49 Crore for True up of FY 2022-23.**

3.12. Accrued Terminal Benefits

Petitioner's Submission

- 3.12.1. MePTCL submitted that as per the directions of the Commission it has done the actuarial valuation for the terminal benefits. The terminal liabilities for the period from 2013 to 2022-23 after considering the payment of Rs. 860 Cr made to the trust comes out to be Rs. 2441.39 Cr which has been accounted for as Actuarial Loss in the FY 2022-23 in the books of accounts of MePTCL, MePGCL, MePDCL and MeECL as under;

Company	Amount in Rs. Cr
MeECL	21.15
MePDCL	1272.22
MePGCL	749.84
MePTCL	398.17
Total	2441.39

- 3.12.2. MePTCL further submitted that the terminal benefits are an integral part of the employee expenses and are ought to be recovered through tariff.

- 3.12.3. However, MePTCL also mentioned the cognizance of the fact that the liabilities accrued for the period of 10 years cannot be allowed by the Commission in one year as that would result in substantial tariff shock.
- 3.12.4. In view of the above MePTCL proposed that the terminal liabilities that have been accrued in 10 years may be allowed in 15 equal installments without any carrying cost. Hence MePTCL proposes an additional recovery of Rs.26.54 Cr for FY 2022-23 and Rs.0.47 Cr on account of the recovery of terminal benefits of MeECL.
- 3.12.5. MePTCL further submitted that the amount of recovery of the accrued liabilities shall be over and above the annual contribution towards terminal benefits.
- 3.12.6. Also, since these are not the actual O&M expenses, MePTCL submitted that it would not claim the said expenses for computation of working capital and escalation of O&M expenses.
- 3.12.7. Accordingly, MePTCL requested Commission to allow the additional recovery of Rs. 27.01 Cr in 2022-23.

Commission's Analysis

- 3.12.8. Commission in its earlier orders has declined the consideration of additional revenue requirement on account of past terminal liabilities due to non-institutionalization of the Pension Fund which was supposed to be created to take care of the terminal liability payments. However, Petitioner has submitted documentary evidence w.r.t institutionalization of the Pension trust in the current period of FY 2022-23, hence the Commission is of the view that pension claim can be evaluated for necessary consideration.
- 3.12.9. The Petitioner has also shared an Actuarial Valuation report of terminal liabilities where the cut-off date for the actuarial valuation is taken as on 31.03.2023. Additionally, Petitioner in its True Up petition for FY 2022-23, has also claimed that they would like the legitimate dues of the Terminal Liabilities to be recovered in 10 to 15 equal instalments.
- 3.12.10. In consideration of the above points, this Commission is of the view that the legitimate claim of the Petitioner w.r.t the past Terminal Liabilities can be relooked and if found in order can be allowed to be recovered over 10 equal instalments, starting from FY 2023-24. Thus, Commission has decided that no additional consideration w.r.t recovery of past Terminal Liabilities shall be considered in True Up order for FY 2022-23 to calculate the Gap/Surplus, but at the same time Commission has consented to allow the Petitioner to recover the current year i.e., FY 2022-23 pension liability cost through its current year O&M expenses.
- 3.12.11. **The Commission considers Nil pass through of Accrued Terminal Liabilities in the current year True Up order for FY 2022-23.**

3.13. Aggregate Revenue Requirement for FY 2022-23

Petitioner's Submission

- 3.13.1. Based on the computation of various components of ARR as detailed out in previous paragraphs the ARR for 2022-23 is estimated as under:

Table 27: Aggregate Revenue Requirement claimed for FY 2022-23

(Amounts in Rs. Crores)

Particulars	Approved by Commission for FY 2022-23	Actual ARR allowed in this Order
Return On Equity	15.67	18.79
Depreciation	24.66	22.84
Interest on Loan	5.56	28.43
Interest on Working Capital	2.71	5.35
Operation and Maintenance Expenses	77.24	79.05
SLDC Charges	1.47	1.47
Total ARR	127.31	155.92
Non-Tariff Income	18.59	5.16
Net ARR	108.72	150.76
Less SLDC ARR	2.94	2.94
ARR for Transmission	105.78	147.82
Accrued Terminal Benefits		27.01
Total ARR		174.83

- 3.13.2. MePTCL requested the Commission to approve the ARR Rs. 147.82 Cr for FY 2022-23 along with accrued terminal benefits of Rs. 27.01 Cr i.e., Rs. 174.83 Crore.

Commission's Analysis

- 3.13.3. The Commission after prudence check of the claims in the True up petition with reference to the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulation, 2014 and audited Statement of accounts.
- 3.13.4. Moreover, the past True-up year Gap/(Surplus) adjustments as had been considered by the Commission in the Current year ARR have been taken into consideration in the present year True-Up exercise.
- 3.13.5. Accordingly, Commission approves the ARR for True up of Transmission business for FY 2022-23 as depicted in the table below,

Table 28: Approved Aggregate Revenue Requirement for True up of FY 2022-23

(Amounts in Rs. Crores)

Sl. No.	Particulars	True-Up for FY 2022-23 (Claimed)	True-Up for FY 2022-23 (Approved)
1	Return On Equity	18.79	17.70

Sl. No.	Particulars	True-Up for FY 2022-23 (Claimed)	True-Up for FY 2022-23 (Approved)
2	Depreciation	22.84	19.25
3	Interest on Loan	28.43	1.44
4	Interest on Working Capital	5.35	3.71
5	Operation and Maintenance Expenses	79.05	79.05
6	SLDC Charges	1.47	1.47
7	Gross Annual Revenue Requirement (ARR)	155.92	122.62
8	Less: Non-Tariff Income	5.16	5.16
9	Less: SLDC Gap	2.94	2.94
10	Net Annual Revenue Requirement (ARR)	147.82	114.63
11	Add: Correction of True up of FY 2017-18 vide corrigendum order dated 06.08.2021		20.08
12	Add: Revenue Gap/(Surplus) for FY 2018-19 True up		-31.39
13	Add: Revenue Gap/(Surplus) for FY 2019-20 True up		-20.98
14	Comprehensive (Income)/ Expenses (Pension)	26.54	0.00
15	Comprehensive (Income)/ Expenses (1/3 MeECL) (Pension)	0.47	0.63
16	Total Recoverable ARR (including Pension Liability)	174.83	82.97

3.13.6. Based on the above, the Commission approves ARR at Rs. 82.97 Crores for True up of FY 2022-23.

3.14. Revenue Gap/Surplus

Petitioner's Submission

3.14.1. Based on the ARR and Revenue presented above the Revenue Gap for FY 2022-23 is presented below,

Table 29: Proposed Revenue Gap for FY 2022-23

(Amounts in Rs. Crores)

Particulars	Amount
Aggregate Revenue Requirement	147.82
Revenue from Transmission of Power	78.72
Gap for FY 2022-23	69.10
Accrued Terminal Benefit	27.01
Total Gap for FY 2022-23	96.12

- 3.14.2. MePTCL requested the Commission to approve the total gap of Rs. 96.12 Crores for FY 2022-23.

Commission's Analysis

- 3.14.3. The Commission, after prudence check of the expenditure claimed by the licensee, with reference to the audited accounts and the Revenue received from the operations, the Commission has determined Revenue Gap as detailed in the Table below:

Table 30: Approved Revenue Gap for FY 2022-23

(Amounts in Rs. Crores)

Sl. No.	Particulars	FY 2022-23
1	Approved recoverable ARR (including Pension Liabilities)	82.97
2	Revenue from Operations (as per audited SOA)	78.72
3	Revenue Gap/(Surplus)	4.25

- 3.14.4. Accordingly, the Commission approves Revenue Gap at Rs. 4.25 Crores in True up of FY 2022-23. The Revenue Gap shall be appropriated in the next Tariff Order.

4. Summary of Order for MePTCL.

The summary of True up Order for Transmission Business for MePTCL for FY 2022-23 is represented in the table below:

Table 31: Summary of Approved ARR figures for True-Up of FY 2022-23

(Amounts in Rs. Crores)

Sl. No.	Particulars	True-Up for FY 2022-23 (Approved)
1	Return On Equity	17.70
2	Depreciation	19.25
3	Interest on Loan	1.44
4	Interest on Working Capital	3.71
5	Operation and Maintenance Expenses	79.05
6	SLDC Charges	1.47
7	Gross Annual Revenue Requirement (ARR)	122.62
8	Less: Non-Tariff Income	5.16
9	Less: SLDC Gap	2.94
10	Net Annual Revenue Requirement (ARR)	114.63
11	Add: Correction of True up of FY 2017-18 vide corrigendum order dated 06.08.2021	20.08
12	Add: Revenue Gap/(Surplus) for FY 2018-19 True up	-31.39
13	Add: Revenue Gap/(Surplus) for FY 2019-20 True up	-20.98
14	Comprehensive (Income)/ Expenses (Pension)	0.00
15	Comprehensive (Income)/ Expenses (1/3 MeECL) (Pension)	0.63
16	Total Recoverable ARR (including Pension Liability)	82.97
17	Revenue from Operations (as per audited SOA)	78.72
18	Revenue Gap/(Surplus)	4.25

5. Commission's Directives

The Commission hereby directs the Petitioner the following directives and is of the view that non-compliance of the directives may lead to non-admittance of the future petitions.

Table 32: Commission's Directive

Sl. No.	Particulars	Timeline															
1.	Petitioner to submit Additional Capitalization funding structure for the respective year																
	<table><tr><th>Particulars</th><th>Total Additional Capitalization (In Rs. Cr.)</th><th>Funded through Grant (In Rs. Cr.)</th><th>Funded though Equity. (In Rs. Cr.)</th><th>Funded through Debt (In Rs. Cr.)</th></tr><tr><td></td><td></td><td></td><td></td><td></td></tr><tr><td></td><td></td><td></td><td></td><td></td></tr></table>	Particulars	Total Additional Capitalization (In Rs. Cr.)	Funded through Grant (In Rs. Cr.)	Funded though Equity. (In Rs. Cr.)	Funded through Debt (In Rs. Cr.)											To be provide during the Next True-Up petition for FY 2023-24
	Particulars	Total Additional Capitalization (In Rs. Cr.)	Funded through Grant (In Rs. Cr.)	Funded though Equity. (In Rs. Cr.)	Funded through Debt (In Rs. Cr.)												
2.	Petitioner to provide annual Grant data capturing the following details:																
	a. Scheme wise grant allocation details																
	<table><tr><th>Sl. No.</th><th>Scheme of Grant</th><th>Total Grant received</th></tr><tr><td>1</td><td>Scheme-1</td><td></td></tr><tr><td>2</td><td>Scheme-2</td><td></td></tr><tr><td>3</td><td>Scheme-M</td><td></td></tr></table>		Sl. No.	Scheme of Grant	Total Grant received	1	Scheme-1		2	Scheme-2		3	Scheme-M				
	Sl. No.	Scheme of Grant	Total Grant received														
	1	Scheme-1															
	2	Scheme-2															
	3	Scheme-M															
	b. Grant Capitalization details																
	<table><tr><th>Particulars</th><th>Opening Balance (As on1st April)</th><th>Closing Balance (As on31st March)</th></tr><tr><td>Grant Allocated</td><td></td><td></td></tr><tr><td>Grant Capitalized</td><td></td><td></td></tr><tr><td>Grant Amortized during the year</td><td colspan="2"></td></tr></table>		Particulars	Opening Balance (As on1st April)	Closing Balance (As on31st March)	Grant Allocated			Grant Capitalized			Grant Amortized during the year					
	Particulars	Opening Balance (As on1st April)	Closing Balance (As on31st March)														
Grant Allocated																	
Grant Capitalized																	
Grant Amortized during the year																	
3.	Petitioner to provide yearly Loan data capturing the following details:																

Sl. No.	Particulars	Timeline																																
	a. As per Normative calculation/ Regulatory Accounts																																	
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6. *Applicability of the Order*

This Order shall come into effect from 1st April 2024.

The Petition of Meghalaya Electricity Power Transmission Company Limited (MePTCL) in Case No. 35 of 2023 stands disposed of accordingly.

Sd/-

**Ramesh Kumar Soni,
Member (Law)**

Sd/-

**Chandan Kumar Mondol,
Chairman**

Annexure-1

**BEFORE THE MEGHALAYA STATE ELECTRICITY REGULATORY
COMMISSION, SHILLONG**

IN THE MATTER OF:

TRUE UP OF TRANSMISSION BUSINESS FOR FY 2022-23 UNDER MSERC
(MULTI YEAR TARIFF) REGULATIONS, 2014 AND UNDER SECTION 62
AND 64 READ WITH SECTION 86 OF THE ELECTRICITY ACT 2003.

AND IN THE MATTER OF:

Meghalaya Power Transmission Corporation Limited (MePTCL)

Lum Jingshai, Short Round Road,

Shillong - 793 001, Meghalaya

... Petitioner

V/s

Byrnihat Industries Association (BIA)

Upper Baliyan, Umtru Road,

Byrnihat, Ri Bhoi District,

Meghalaya - 793101

... Objector

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Place: Shillong

Date: 02.01.2024



Filed by:

Byrnihat Industries Association
Upper Baliyan, Umtru Road,
Byrnihat, Ri Bhoi District,
Meghalaya - 793101
Phone: 8004523076

**BEFORE THE MEGHALAYA STATE ELECTRICITY REGULATORY
COMMISSION, SHILLONG**

IN THE MATTER OF:

TRUE UP OF TRANSMISSION BUSINESS FOR FY 2022-23 UNDER MSERC (MULTI YEAR TARIFF) REGULATIONS, 2014 AND UNDER SECTION 62 AND 64 READ WITH SECTION 86 OF THE ELECTRICITY ACT 2003.

AND IN THE MATTER OF:

Meghalaya Power Transmission Corporation Limited (MePTCL)

Lum Jingshai, Short Round Road,

Shillong - 793 001, Meghalaya

... **Petitioner**

V/s

Byrnihat Industries Association (BIA)

Upper Baliyan, Umtru Road,

Byrnihat, Ri Bhoi District,

Meghalaya - 793101

... **Objector**

**SUGGESTIONS/OBJECTIONS ON BEHALF OF BYRNIHAT INDUSTRIES
ASSOCIATION**

MOST RESPECTFULLY SHOWETH:

1. The Objector, M/s Byrnihat Industries Association (“**BIA**”) is filing the present objections to the petition filed by the Meghalaya Power Transmission Corporation Limited (hereinafter referred to as ‘**MePTCL/ Petitioner**’) seeking True Up of Transmission Business for FY 2022-23. The aforementioned petition has been filed under the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2014 (hereinafter referred to as “**MYT Regulations 2014**”) and under Sections

62 & 64 read with Section 86 of the Electricity Act 2003 (hereinafter referred to as '**The Act**'). The objections are being filed in pursuance to the public notice inviting objections and representations from the stakeholders in the State of Meghalaya.

2. The Objector is an Association of industrial consumers in the Byrnihat area in the State of Meghalaya. The Industrial consumers are few in number but at the same time contribute a substantial part of the revenue requirements of the electricity utilities in the state. The special characteristics of the Industrial consumers that benefit the Utilities are:
 - i. They are the subsidizing category of consumers for the utilities. Hence, they are the revenue earners ensuring better returns for the utilities.
 - ii. The Load curve and consumption pattern enable better capacity utilization and low Cost of Service for the Utilities in comparison to LT consumer categories.
3. In recent years, Meghalaya has witnessed firming up of power capacity from several sources and an increase in own generation capacity, thus moving towards becoming a net power exporter from being a power deficit State. Being abundantly rich in Hydro Power Generation, the consumers in the State of Meghalaya ought to have considerably lower power procurement costs resulting into lower tariffs across all the categories along with the reasonable industrial tariffs. However, the tariff hikes in the recent years in Meghalaya is in higher side commensurate with the other states in India, which have disproportionately burdened the industrial consumers of Meghalaya but also seriously reduce the Industrial Growth throughout the state. In view of this, the Petition filed

by the Petitioner is of utmost relevance as it would have a direct impact on the various stakeholders involved.

4. It is submitted that the Objector regularly participates in the proceedings related to determination of ARR and Tariff by the Hon'ble Meghalaya State Electricity Regulatory Commission (hereinafter referred to as "**Hon'ble Commission**" or "**Hon'ble MSERC**") and takes up the other issues concerning its members and is therefore an unparalleled stakeholder.
5. In order to submit a comprehensive and detailed analysis of the instant Petition, the Objector has worked with expert consultant, Energy Optimaa. A copy of the report prepared by the expert consultant, Energy Optimaa, is annexed as **Annexure A**.
6. The Objector hereinbelow submits its comments/ suggestions for the True up Petition filed by the Petitioner for FY 2022-23. The Objector is submitting item wise objections/comments with regards to the submissions made by the Petitioner for True up of Transmission business for FY 2022-23.

Methodology Adopted for True up Petition for FY 2022-23

7. It is submitted that the under the head of Gross Fixed Assets, date of the True up Order for FY 2021-22 is mentioned as 21st November 2023, which is incorrect. The Hon'ble Commission has undertaken the Approval of True-up of Transmission Business for FY 2021-22 in Case No. 2/2023 vide order dated 13.11.2023. Hence the reference of the date in the Petition is required to be corrected.

8. The Petitioner, under the head of Treatment of Grants and Consumer Contribution, has submitted that as per IND AS 20, the Petitioner has to account for the grants received even if the asset against the grant is not capitalized and hence consideration of entire grants in the statement of accounts against the Gross Fixed Assets would not be a correct methodology.
9. It is submitted that the Petitioner has failed to provide the accounting treatment of the grants specified in the said IND AS. The ***“Indian Accounting Standard (Ind AS) 20 - Accounting for Government Grants and Disclosure of Government Assistance”***, state as follows:

“12 Government grants shall be recognised in profit or loss on a systematic basis over the periods in which the entity recognises as expenses the related costs for which the grants are intended to compensate.

Presentation of grants related to assets

24 3 Government grants related to assets, including non-monetary grants at fair value, shall be presented in the balance sheet either by setting up the grant as deferred income or by deducting the grant in arriving at the carrying amount of the asset.

25 4 Two methods of presentation in financial statements of grants or the appropriate portions of grants related to assets are regarded as acceptable alternatives.

26 5 One method recognises the grant as deferred income that is recognised in profit or loss on a systematic basis over the useful life of the asset.

27 6 The other method deducts the grant in calculating the carrying amount of the asset. The grant is recognised in profit or loss over the life of a depreciable asset as a reduced depreciation expense.”

10. It is submitted that the IND AS -20 clearly states that though the grant is to be recognized as balance sheet item, as per the income approach, the government grants should be recognised in profit or loss on a systematic basis over the periods in which the entity recognises as expenses the related costs for which the grant is intended to compensate which is depreciation. Hence, when depreciation on assets has been calculated which is funded by the Grant as an expenditure, the deferred income of the grant also is required to be addressed on a systematic basis.
11. Accordingly, the Hon'ble Commission has considered the approach of pro-rata basis of the depreciation in proportion to the grant to be considered as income and adjusted in depreciation amount which, in the submission of the Objector, is a correct approach.
12. Further, as submitted by Petitioner with respect to the approach adopted by other State Commissions on inclusion of CWIP cost, it is necessary to maintain the detail of Grant received asset wise so as to identify the grant which has been capitalized and the grant which is under CWIP. Since considering the cash flow position, the grant as received is considered for the capitalization of the assets based on the required cash flow, the whole grant has been considered against the capitalization of the assets which seems to be a correct issue. Alternatively, the Petitioner may have to provide the details of the grant unutilized in capitalization.

True up of Expenses of FY 2022-23

A. Physical and Operational Performance

13. It is submitted that Table 1 in the Petition clearly shows that there is no increase in Substation in MVA capacity and bay and only 1.28% increase

in Line length in FY 2022-23 as compared to FY 2021-22. Therefore, the development of Transmission Infrastructure in the State has been highly ignored and there has been no breakthrough in achievement of any growth in the power sector.

Physical Parameter of Transmission System

Parameter	FY 2021-22	FY 2022-23	Growth
Substation in MVA	1790	1790	0%
No. Of Substation Bays	200	200	0%
Lines (Ckt/km)	1476.112	1495.012	1.28%

B. Transmission System Availability Factor and Transmission Losses

14. The Petitioner has submitted the details of the Transmission availability and transmission loss for past 5 years as given below:

Transmission System Availability and Transmission Losses

Particulars	2018-19	2019-20	2020-21	2021-22	2022-23
Transmission System Availability (%)	99.69	99.55	98.65	99.35	99.22
Transmission Loss (%)	4.08	3.78	3.49	3.01	3.16

15. It is submitted that the Transmission system Availability has been showing a decreasing trend and Availability claimed in FY 2022-23 is lower than past year. Further, in the Petition for Determination of Multiyear Aggregate Revenue Requirement (ARR) for FY 2021-22 to FY 2023-24 and Determination of Transmission and open access Tariff for FY 2021-22, the Petitioner has projected the Transmission system Availability of 99.80% against which the actual achieved is 99.22%.
16. It is submitted that the Transmission loss has witnessed an increasing trend from FY 2020-21, whereby the loss has increased from 3.01% to 3.16%.

17. It is submitted that the Petitioner has not provided any justification for such inefficiencies and burden of the same cannot be passed on to the end consumers.

Gross Fixed Assets (GFA)

18. The Petitioner has submitted that it has considered the opening GFA as the Closing GFA allowed by this Hon'ble Commission in the True up Order for FY 2021-22 in Case No. 2/2003 dated 13.11.2023 and addition and deletion as per audited statement of accounts as given below:

Table 3 Gross Fixed Assets for FY 2022-23

Particular	Amount in Rs. Cr.
Opening GFA	508.48
Addition During the Year	36.96
Deletion During the Year	0.02
Closing GFA	545.42

19. It is submitted that the closing GFA as approved by this Hon'ble Commission in True up Order (for FY 2021-22) in Case No. 2/2003 dated 13.11.2023 is as below:

"2. ...

Commission considers the GFA and Govt. Grants as reported in the audited statement of accounts.

...

Table 6: Approved Capital Structure for FY 2021-22

(Rs. Cr)

S. no.	Particulars	GFA	Grant	Net GFA	Equity at 30% of Net GFA
1	Opening as per SOA	462.95	(-) 84.61	378.34	113.50
2	Closing as per SOA	508.47	(-) 89.26	419.21	125.76

3	Avg. considered for true up	485.71	(-) 86.94	398.77	119.63
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20. It is humbly submitted that the opening GFA balance considered by the Petitioner is not in line with the closing balances as approved by the Hon'ble Commission in the True up Order (for FY 2021-22) in Case No. 2/2003 dated 13.11.2023. For the sake of convenience, the approved closing balance of GFA as per the said Orders and the balance considered by the Petitioner are depicted below:

Opening Balance of GFA of MePTCL as a whole for FY 2022-23 (Rs. Crore)

Name of the Station	Approved Cl. GFA for FY 2021-22	Op. GFA for FY 2022-23 as per MePTCL	As per Audited Accounts*	Variation
MePTCL	508.45	508.48		-0.03

*-FA schedule not available in the enclosed Financial Statement as full set was missing

21. As can be outlined from the above table, the total variation in approved GFA vis-à-vis GFA considered by the Petitioner for opening balance of FY 2022-23 is marginal.
22. It is submitted that Audited Accounts submitted by the Petitioner does not include schedule related to Fixed Assets to verify the GFA considered by the Petitioner. Accordingly, the Objector reserves the right to make additional submission once the said schedule is provided by the Petitioner.
23. Further, with regards to the GFA addition during the year, the Petitioner has claimed the asset addition of Rs. 36.96 Crore without providing any details and substantial document supporting such claim. The Physical Parameter of Transmission system as discussed in the preceding section clearly shows that there is hardly any significant addition in the

Transmission Infrastructure and against an increase of 1.28% in Line, the Petitioner has claimed the capitalization of Rs. 36.96 Crore, which needs a prudence check.

24. In view of the above, the closing GFA for the FY 2021-22 must be considered as the opening GFA for the True up of FY 2022-23. Further, in the absence of any verifiable and substantiating documents or justification on the nature of such addition to the GFA, such claims may not be admitted for Truing up of ARR for the FY 2022-23.
25. It is further submitted that against the approved capitalization of Rs. 292.74 Crore for FY 2022-23, as approved in MYT ARR Order for the Third Control Period in Case No. 03/2021, the Petitioner has claimed only Rs. 36.96 Crore in the present Petition. This is a clear indication that many of the schemes have been delayed which would ultimately result in cost / time over run cost. It is requested that such cost may not be allowed in the future and Petitioner may be asked to provide the status of each scheme along with the spillover details.
26. It is submitted that as per the Regulation 29 of the MYT Regulations 2014, Additional Capitalization after the date of Commercial operation is admissible in select cases only as shown below:

"29 Additional Capitalisation

*29.1 The following capital expenditure, **actually incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to the prudence check:***

- a) *Due to Un-discharged liabilities within the original scope of work;*

- b) *On works within the original scope of work, deferred for execution;*
- c) *To meet award of arbitration and compliance of final and unappealable order or decree of a court arising out of original scope of works;*
- d) *On account of change in law;*
- e) *On procurement of initial spares included in the original project costs subject to the ceiling norm specified;*
- f) *Any additional works/services, which have become necessary for efficient and successful operation of a generating station or a transmission system or a distribution system but not included in the original capital cost:*

Provided that original scope of work along with estimates of expenditure shall be submitted as a part of Business Plan: Provided further that a list of the deferred liabilities and works deferred for execution shall be submitted along with the application for final tariff after the date of commercial operation of the generating Unit/Station or transmission system or distribution system. Provided further that the assets forming part of the project but not put to use, shall not be considered.

29.2 Impact of additional capitalization on tariff, as the case may be, shall be considered during Truing Up of each financial year of the Control Period."

27. In view of the above Regulations and in the absence of any necessitating document put forth by the Petitioner, the Additional Capitalization claim is not admissible and allowing the claim would be in contravention to the MYT Regulations 2014.
28. In view of the above arguments, the allowable GFA for the FY 2022-23 is summarized in the table shown below:

Proposed GFA for FY 2022-23 (Rs. Crores)

Particular	As per MePTCL	Proposed
Opening GFA	508.48	508.48
Addition during the Year	36.96	0.00
Retirement during the Year	0.02	0.02
Closing GFA	545.42	508.46
Average GFA	526.95	508.47

Capital Structure

29. The Petitioner has provided the break-up of the capital structure to be considered for FY 2022-23 outlining the fixed assets, CWIP, Debt, Equity and Grant with the submission that the grants available in the books of accounts do not pertain to the Gross Fixed Assets only but also to the capital works in progress.
30. The Objector has already made detailed submissions on the approach adopted by the Petitioner in the preceding section. It is pertinent to note that there is inconsistency in the figures considered related to GFA, Loan and Equity in Table 4 of the Petition and the figures outlined in the subsequent sections of the Petition (particularly Table 5 and 7 of the Petition) and the Petitioner has failed to provide any clarification / justification for such deviation. The Objector submits the variance in the different tables as outlined in the following table:

Variance in GFA, Loan and Equity (Rs. Crore)

Particulars	Table 4	Related Table*	Difference
Equity in Opening GFA	107.49	133.71	-26.22
Closing Equity	108.48	134.70	-26.22
Loans In GFA	250.81	261.21	-10.40
Loans in Closing GFA	253.12	262.18	-9.06

*Equity – Table 5 and Loan – Table 7 of the Petition

31. It is submitted that such errors in computation show that the True up Petition has been filed casually with no seriousness at all. Further, no excel working has been provided by the Petitioner on the website to assess the calculation of the Petitioner.
32. In view of the above, it is requested that the Hon'ble Commission may direct the Petitioner to follow due procedure while undertaking True up/ tariff matters.

Return on Equity

33. The Petitioner has submitted that it has claimed Return on Equity in line with the provisions of Regulation 27 of the MYT Regulations 2014, amounting to Rs. 18.79 Crore for the FY 2022-23.
34. The claim made by the Petitioner is based on the allocation of the grants to total capex (GFA + CWIP) and applying debt:equity ratio of 70:30 as per the MYT Regulations 2014. It is submitted that the figures considered by the Petitioner are based on IND-AS adjustment, however, this Hon'ble Commission in past tariff orders has clearly stated that IND AS norms shall not be considered and for tariff purposes, only historical cost will be considered for determination of tariff.
35. Regulation 31 of MYT Regulations 2014 is reproduced as follows:
*"Return on equity shall be computed on the equity base determined in accordance with regulation read with 27 and shall not exceed 14%.
 Provided that where equity actually deployed is less than 30% of the capital cost, the actual equity shall be considered for determination of tariff."*

36. It is submitted that the Petitioner has completely overlooked the approach adopted by the Hon'ble Commission in the past tariff order whereby the Grant is to be adjusted with the GFA and accordingly the equity is required to be recomputed. Also, Regulations do not provide for excluding the Grants and Contributions utilized for capital work in progress for computation of Return on Equity. The relevant extracts of the True up Order for FY 2021-22 in Case No. 02/2023 are reproduced below:

"3. Return on Equity

...

Commission considers Opening and Closing Govt. Grants and contribution at Rs. 84.61 Crore and Rs.89.26 Crore respectively while amortization considered at Rs.1.69 Crore for True up of FY 2021-22.

Commission considers the Return on Equity as per the Regulation 31.1 of MSERC MYT Regulations 2014 considering the Govt. Grants and contributions as depicted below.

Table 9: Computation of Return on Equity for True up FY 2021-22

(Rs. Cr)

S. no	Particulars	Approved for True up of FY 2021-22
1	Opening GFA as on 01.04.2021	462.95
2	Additions during the FY 2021-22	45.53
3	Closing GFA as on 31.03.2022	508.48
4	Average GFA	485.71
5	Less: Avg. Grants & Subsidies available (Note no.17.1 of SOA)	86.94
6	Net Capital Cost	398.77
7	70% considered Debt	279.14
8	30% Considered Equity for FY 2021-22	119.63
9	Equity Considered for FY 2020-21	113.45
10	Average Equity (119.63+113.45)/2	116.54
11	Rate of return on equity	14%
12	Return on Equity	16.32

37. It is further submitted that the Petitioner has not filed the details of capitalization for the FY 2022-23. While the Annual Financial statement does reveal asset addition, there is no justification by the Petitioner as to what such Capitalization is for. In the absence of substantiating evidence, no equity addition is proposed to be considered for the True up of ARR for the FY 2022-23.
38. The Objector submits that the Petitioner's claim is void of any meaningful rationale and in the absence of documentary evidence, the Return on equity must be recomputed based on the approach adopted in the past tariff order. The Objector has also considered the grants received during the year for computation of Return on Equity as shown in the table below:

Return on Equity for FY 2022-23 (Rs. Crore)

Particulars	Formula	Recomputed	Allowable*
GFA as on 31.03.2022	A		508.48
Addition during year	B		0.00
(-) Retirements	C		0.02
GFA as on 31.03.2023	D = A+B-C		508.46
Average Assets	E = (A+D)/2		508.47
Less: Average Grants/contributions as per note 17.1-SOA	F		117.50
Net Capital cost for ROE	G = E - F		390.97
Opening Equity	H	133.71	119.63
Closing Equity Capital	I = G x 30%	134.70	117.29
Average Equity	J = (H + I)/2	134.21	118.46
ROE at 14%	K = 14% x J	18.79	16.58

*-computed considering no additional capitalisation allowed as per para 3.1 of this report

39. The Objector humbly submits before the Hon'ble Commission to approve Return on Equity as Rs. 16.58 Crore for the FY 2022-23.

Interest on Loan

40. The Petitioner has submitted that the Interest on Loan has been computed as per the provisions of Regulations 27 and 32 of MYT Regulations 2014,

whereby the weighted average rate of interest has been computed on the actual loans.

41. Regulations 32.1 and 32.2 of MYT Regulations 2014 state as follows:

“32.1 Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of loan repayment, terms and conditions of loan agreements, bond or debenture and the lending rate specified therein.

Provided that the outstanding loan capital shall be adjusted to make it consistent with the loan amount determined in accordance with regulation 27.

32.2 The interest and finance charges attributable to capital work in progress shall be excluded.

Provided that neither penal interest nor overdue interest shall be allowed for computation of tariff.”

42. It is submitted that since no break-up of interest has been provided, a detailed scrutiny may be undertaken that whether any penal interest or overdue interest is included in the interest claimed by Petitioner.
43. It is further submitted that the Hon’ble Commission in the past Tariff Order has considered the State Government loan with 10% overdue payment which has not been considered by the Petitioner. The relevant extracts of the True up Order for FY 2021-22 in Case No. 02/2023 are reproduced below:

“5. Interest and Finance Charges

...

Commission considers that closing balance of the previous year along with the new loans if any shall be considered for computation of interest on outstanding loans during FY 2021-22.

The licensee has projected outstanding loan from state government at Rs.42.19 Crore where there are no details in the audited statement of accounts for FY 2018-19 or FY 2019-20. As per the True up orders for FY 2020-21 the closing balance of state govt loan stood at Rs.20.86 Crore and the overdue 10% repayment in the FY 2020-21 outstanding loan adjusted in this order.

The Interest on loan capital projected from MeECL is not considered.

Table 17: Computation of Interest and Finance charges for True up of FY 2021-22
(Rs. Cr)

Sl. No	Particulars	REC of BIA 400/200 KV	State Govt Loan	Total	Interest allowed	Weighted Average of Interest
1	Opening balance	8.56	20.86	29.42		
2	Additions during the year	-	-	0.00		
3	Repayment (incl. default)	1.35	3.97	5.32		
4	Closing balance	7.21	16.89	24.10		
5	Average Loan	7.88	18.88	26.76		
6	Rate of Interest	11.00%	9.31%			9.83%
7	Interest payable	0.87	1.76	2.63		
8	Total Interest			2.63		

Commission considers Interest and Finance charges at Rs.2.63 Crore for True up of FY 2021-22."

44. It is submitted that the Petitioner has tried to claim the loan on normative basis whereas Regulations 32 clearly states that the interest on loan is to be allowed considering the outstanding loan as per accounts which is not considered by the Petitioner.
45. In view of the above, on basis of the approach adopted by the Hon'ble Commission in its past orders, the Objector has recomputed the interest

on loan and requests the Hon'ble Commission to consider the same while allowing the interest on loan cost for final computation of ARR.

Allowable Interest on Loan for FY 2022-23 (Rs. Crore)

Particulars	Opening balance	Repayment	Cl. Loan	Average Loan	Interest Rate	Interest
REC of BIA 400/200 KV	7.21	1.34	5.87	6.54	11.00%	0.72
State Govt Loan	16.89	1.69	15.20	16.05	9.31%	1.49
Total	24.10	3.03	21.07	22.59	9.80%	2.21

Depreciation

46. The Petitioner has stated that the depreciation has been computed as per the methodology adopted by Hon'ble Commission in the previous true ups and the opening balance of GFA has been considered as per the GFA approved by Hon'ble Commission in the order dated 13.11.2023 in Case No. 02 of 2023 in True up of 2021-22.
47. The Petitioner has claimed the depreciation of Rs. 22.84 crore after adjusting the average grant of Rs. 79.60 Crore which is adjusted grant in proportion to GFA and CWIP.
48. As per the MYT Regulations 2014, Depreciation is defined as follows:
- "33 Depreciation*
- 33.1 For the purpose of tariff determination, depreciation shall be computed in the following manner:*
- a) The asset value for the purpose of depreciation shall be the historical cost of the assets as approved by the Commission where: The opening asset's value recorded in the Balance Sheet as per the Transfer Scheme Notification shall be deemed to have been approved, subject to such modifications as may be found necessary upon audit of the accounts, if such a Balance Sheet is not audited.*

Consumer contribution or capital subsidy/ grant etc shall be excluded from the asset value for the purpose of depreciation.

- b) For new assets, the approved/accepted cost for the asset value shall include foreign currency funding converted to equivalent rupee at the exchange rate prevalent on the date of foreign currency actually availed but not later than the date of commercial operation.*
- c) The salvage value of the assets shall be considered at 10% and depreciation shall be allowed upto maximum of 90 % of the capital cost of the asset.*
- d) Depreciation shall be calculated annually as per straight-line method at the rates specified in CERC (Terms and Conditions of Tariff) Regulations, 2009 as may be amended from time to time. Provided that land is not a depreciable asset and its cost shall be excluded from the capital cost while computing the historical cost of the asset.*
- e) **Depreciation** shall be chargeable from the first year of operation. In case of operation of the asset for part of the year, depreciation shall be charged on pro-rata basis.*
- f) The remaining depreciable value as on 31st March of the year closing after a period of 12 years from the date of commercial operation shall be spread over the balance useful life of the asset."*

- 49. It is submitted that the Petitioner has not substantiated its claim of Addition in Capital Cost by way of any documentary evidence, hence the same is not admissible under the MYT Regulations 2014.
- 50. It is submitted that the Petitioner has not considered the amortization of grants as per the approach adopted by the Hon'ble Commission in the past tariff order and has adjusted the grants considering the same utilised under Assets and CWIP which also contravenes the provisions of the

MYT Regulations 2014. The Review Order of True up for FY 2021-22 in Case No. 03/2023 is reproduced as follows:

“2.2. Depreciation

...

Commission’s Analysis

Commission had computed the depreciation in accordance with Regulation 33.1 (a) of the MSERC MYT Regulations 2014 after deducting the depreciation on the Govt. grants and consumer contributions towards capital assets netting off the Amortization of Grants and contributions for Rs.1.64 Crore in the True up order dated 22.03.2023.

The Non-Tariff/other income as per the audited statement of accounts of MePTCL was at Rs.2.55 Crore which includes sum of Rs.1.64 crore towards Amortization of grants and Amortization of consumer contributions.

...

Table 6 : Computation of Depreciation for Review of True up for FY 2020-21

(Rs. Cr)

Particulars	Opening Bal as 01.04.2020	Additions	Closing Bal as on 31.03.2021	Avg	90%	% of Dep	Amt of Dep
Land	4.10	0.00	4.10	4.10	-	-	-
Buildings	14.80	0.06	14.86	14.83	13.35	3.34	0.45
Plant and Equipment	152.94	0.54	153.48	153.21	137.89	5.28	7.28
Furniture and Fixtures	0.89	0.03	0.92	0.91	0.82	6.33	0.05
Vehicles	0.10	0.00	0.10	0.10	0.09	9.50	0.008
Office Equipment	5.62	0.00	5.62	5.62	5.06	6.33	0.32
Hydraulic works	0.09	0.00	0.09	0.09	0.08	5.28	0.004
Other Civil works	10.75	0.63	11.38	11.06	9.95	3.34	0.33
Lines and Cable Network	272.00	0.38	272.38	272.19	244.97	5.28	12.93
Total	461.29	1.64	462.93	462.11			21.37
Avg Depreciation						4.62	
Avg Grants Available						83.96	
Less: Dep on Grants							3.88
Net Depreciation							17.49
1/3rd of MeECL Dep							0.09
Depreciation allowed for Review							17.58

Commission considers Depreciation at Rs.17.58 Crore for Review of True up for FY 2020-21."

51. It is further submitted that the Depreciation shall be calculated upto 90% of the Gross fixed assets as per the MYT Regulations 2014.
52. In view of the methodology adopted by the Hon'ble Commission, the allowable Depreciation for FY 2022-23 is recomputed as per the table below:

Allowable Depreciation as per FY 2022-23 (Rs. Crore)

Particulars	Opening GFA	Addition	Retirement	Closing GFA	90% of GFA	% of Dep	Depn.
Land	9.74			9.74	8.77	0.00%	-
Buildings	17.89			17.89	16.10	3.34%	0.54
Plant and Equipment	153.83			153.83	138.45	5.28%	7.31
Furniture and Fixtures	0.99			0.99	0.89	6.33%	0.06
Vehicles	0.21			0.21	0.19	9.50%	0.02
Office Equipment	7.15			7.15	6.44	6.33%	0.41
Hydraulic works	0.09			0.09	0.08	5.28%	0.00
Other Civil works	12.91			12.91	11.62	3.34%	0.39
Lines and Cable Network	305.64			305.64	275.08	5.28%	14.52
Total	508.45	0.00	0.00	508.45	457.61	5.24%	23.25
Average assets					508.45	4.57%	
Less : Depreciation on Grants and Contribution	89.26			145.74	117.50		5.37
Depreciation to be allowed							17.87

53. Accordingly, as computed in the table above, it is requested that the Hon'ble Commission may allow Rs. 17.87 Crore as Depreciation for FY 2022-23.

Operation and Maintenance Expenses

54. The Petitioner has submitted that it has claimed O&M expenses of Rs. 79.05 Crore as per the audited accounts of FY 2022-23 and similar

approach has been adopted by the Hon'ble Commission in the past orders.

- a. Employee Expenses as per the audited accounts and terminal benefits have been accounted as per actuarial valuation.
- b. R&M and A&G expenses as per the audited accounts
- c. O&M expenses of MeECL has been apportioned in the three companies in equal proportion.
- d. A&G expenses of MeECL also includes the penalty of Rs.1.21 Cr which has been excluded from the claim.

55. It is observed that the Petitioner has incorporated expenditures towards Holding Company expenses while claiming O&M Expenses.

56. At the outset, it is submitted that the claim made by the Petitioner is in contravention to the MYT Regulations 2014. The Petitioner has not proposed any norms in the FY 2018-21 control period nor has it proposed any norms for the control period FY 2021-24.

57. The relevant extracts of the MYT Regulations 2014 are reproduced below:

"94 Operation and Maintenance Expenses

94.1 Operation and Maintenance Expenses or O&M Expenses shall mean the total of all expenditure under the following heads:-

- *Employee Cost*
- *Repairs and Maintenance*
- *Administration and General Expenses.*

.....

94.3 The Commission shall ensure that the O&M expense are in accordance with the norms fixed by the Commission, and any excess or shortage over the norm shall have to be justified by the licensee.

94.4 In the absence of any norms for O&M expenses, the Commission shall determine operation and maintenance expenses based on prudence check of the estimates submitted by the licensee and consumer price index/wholesale price index/inflation."

58. With respect to 1/3rd Cost of MeECL included in the O&M cost, it is submitted that incorporating the O&M expenses towards Holding company expenses while claiming its own O&M Expenses is against the provision of MYT Regulations 2014.
59. It is submitted that no provision of the MYT Regulations 2014 of the Hon'ble Commission allows expenditures of a holding company to be passed through in Tariff and the applicability of the MYT Regulations 2014 is only for Gencos, Transcos and Discoms as defined in the MYT Regulations 2014 shown below:
"1.5 They shall be applicable to all existing and future Generating Companies, Transmission Licensees and Distribution Licensees and their successors, if any;"
60. The Petitioner's submission does not take into consideration the above quoted Regulatory provisions and the claim pertaining to Holding company expense is therefore not tenable.
61. In view of the same, the claim of the Petitioner towards O&M Expenses of the Holding company is unjust and does not merit any consideration by the Hon'ble Commission and may be disallowed.
62. However, considering the approach as adopted by the Hon'ble Commission, the Objector has recalculated the allowable O&M expenses in the subsequent paras:

A. Employee Expenses

63. The Petitioner has claimed Rs. 69.75 Crore which includes apportionment of employee benefit expenses of Holding Company for Rs.11.92 Crore and Rs.1.62 Crore as 1/3rd of the employee expenses of MeECL for True up of FY 2022-23.
64. It is submitted that the breakup figures of above Employee benefit expenses include Rs.12.27 Crore towards Pension, Pension contribution to Deputation personnel which shall be met from Trust Funds. The remaining apportionable expenses may be considered for True up of FY 2022-23.
65. It is submitted that no detail has been provided for the claim of Rs. 1.62 Crore and it is reiterated that the O&M cost of the holding company may not be allowed in True-up of Distribution licensee.
66. It is pertinent to note that the employee expenses approved by the Hon'ble Commission in the True up Order for FY 2021-22 is Rs. 46.89 Crore (Case No. 2/2023 dated 13.11.2023), against which the Petitioner has claimed Rs. 69.75 Crore resulting in an increase of around 48.75%. The Petitioner in the petition has not provided any justification for such huge increase.
67. It is submitted that the approach of the Petitioner seems to be unjust as it is claiming the whole employee expenses which has increased to the extent of 48.75% without any justification and this would ultimately be a burden on the end consumers.

68. The Objector submits that Regulations 94.4 of MYT Regulations 2014 clearly states that in absence of any norms, the expenses have to be determined based on prudence check and Consumer price index (CPI)/wholesale price index (WPI)/inflation. Therefore, the Objector requests the Hon'ble Commission to consider the above submissions and if the cost exceeds the inflation index, then the same may be required to be limited as per the Regulations.
69. It is submitted that for FY 2022-23, escalation of 5.18% is presumed considering the weighted average increase in WPI and CPI in 2022-23 with composite index of 50% each as stated by the Petitioner in para 5.8 of the Petition.
70. Accordingly, the following O&M cost may be allowed for FY 2022-23:

Employee Cost for FY 2022-23 (Rs. Crore)

Particulars	Formula	Allowable
Employee cost as per O&M norm		
Employee cost for FY 2021-22	A	46.89
Escalation Factor -Avg of CPI / WPI	B	5.18%
Employee cost as per O&M norm	$C = AX (1+B)$	49.32
Actual Employee Cost computed		
Salaries and wages (Note. no.27 of SoA)	D	34.60
Contributions to provident and other funds	E	1.46
Apportionment of Employee Benefit Expenses (from Holding Company)		
(a) Salaries and wages of Deputationists (Note. no. 22 of MeECL SoA)	F	8.01
(b) Staff welfare expenses, insurance etc.	G	0.01
(c) Contribution to CPS (Corporation Contribution)	H	0.06
Total Employee Expenses	$I = (D \text{ to } H)$	44.14
Net Actual Employee Expense admissible for True up	$J = \text{MIN}(C,I)$	44.14

B. R&M and A&G Expenses

71. The R&M expenses claimed by the Petitioner is Rs. 5.76 Crore which includes the apportionment of the MeECL expenses of Rs. 0.34 Crore also.

The A&G expenses claimed by the Petitioner is Rs. 3.54 Crore which includes the apportionment of the MeECL expenses of Rs. 0.61 Crore also.

72. It is reiterated that the claim of the Petitioner towards Expenses of the holding company is unjust and does not merit any consideration by the Hon'ble Commission.
73. It is submitted that the Overall R&M and A&G expenses claimed for FY 2022-23 is Rs. 9.30 Crore which is less than the R&M and A&G expenses of Rs. 11.15 Crore, as approved by the Hon'ble Commission in True up Order for FY 2021-22 in Case No. 02/2023. The Objector recognizes and encourages such reduction in cost.
74. The Objector requests the Hon'ble Commission to consider the above submissions and if the cost exceeds the inflation index, then the same may be limited as per the Regulations.
75. The Objector has recalculated the R&M and A&G cost as per the Regulations 94.4 of MYT Regulations 2014 as follows:

Allowable R&M and A&G expenses for FY 2022-23 (Rs. Crore)

Particulars	Formula	Allowable
R&M and A&G cost as per O&M norm		
R&M and A&G cost for FY 2021-22	A	11.15
Escalation Factor - Avg of CPI / WPI	B	5.18%
R&M and A&G cost as per O&M norm	$C = \frac{AX}{(1+B)}$	11.73
Actual R&M Cost computed		
Actual R&M and A&G Cost (Note. no.30 of SoA)	D	8.35
Net Actual R&M and A&G expense admissible for True up	$E = \min(C,D)$	8.35

76. In view of the above, the Objector requests this Hon'ble Commission to allow the following O&M expenses for FY 2022-23:

O&M Expenses for FY 2022-23 (Rs. Crore)

O&M Cost	Claimed	Allowable
Employee Expenses	69.75	44.14
R&M Cost	5.76	8.35
A&G Cost	3.54	
Total	79.05	52.49

Interest on Working Capital

77. The Petitioner has claimed Interest on Working capital of Rs. 5.39 Crore as per Regulation 34.2 of the MYT Regulation 2014 for Transmission business.
78. It is submitted that while computing the interest on Working Capital, the Petitioner has considered the O&M expenses for two months, whereas Regulation 34.2 clearly states that to estimate the level of working capital, the O&M expenses is required to be considered for 1 month only. Hence the approach adopted by the Petitioner is in contravention to the provisions of the MYT Regulations, 2014 and the Petitioner wants to pass on their inefficiency burden on the end consumers with higher tariff.
79. Thus, there is a consequential change in the computation which is produced below:

Interest on Working Capital (Rs. Crore)

Interest on Working Capital	Claimed	Allowable
O&M expenses for 1 Month	13.18	4.37
Maintenance Spares at *1% of escalation at 6%	5.18	5.39
Receivables for 2 Months	25.47	13.12*
Total	43.82	22.88
Interest Rate (%) (SBIAR as on 01.04.2022)	12.30%	12.30%
Interest on Working Capital	5.35	2.81

*-Actual revenue of Rs. 78.72 Crore for FY 2022-23 has been considered

Non-Tariff Income

80. The Petitioner has submitted that it has claimed the Non-Tariff income of Rs 5.16 Crore as per the statement of accounts with certain exclusions such as Amortization of Grant.
81. It is submitted that the Petitioner has not claimed Revenue Grants from UDAY, Amortization of grants / consumers contribution to the extent not adjusted in depreciation, lower DPC, etc.
82. The reconciliation of the Non-Tariff Income as claimed by the Petitioner and as per SoA is outlined below:

Non-Tariff Income for FY 2022-23 (Rs. Crore)

	Non-Tariff Income	Claimed	Accounts
A	Other Income		
1	Interest Income from Banks	0.79	0.79
	Sub-Total A	0.79	0.79
B	Other Non-Operating Income		
a	Scrap Sale		-
b	AMC Charges	0.69	0.69
c	Rental and hiring income	0.14	0.14
d	Discount Received		-
e	Fees and Penalties	0.16	0.16
f	Sale of Tender forms	0.01	0.01
g	Miscellaneous receipts	0.20	0.20
h	Amortisation of Grants		2.20
	Sub-Total B	1.20	3.40
C	MeECL Non-Tariff Income	3.16	3.16
D	Grand Total - Non-Tariff income	5.15	7.35
E	Depreciation grant considered		2.20
F	Total Non-Tariff Income as per Audited accounts		5.15

Revenue from Transmission Business

83. The Petitioner has submitted that the Revenue from Sale of Power has been considered as per the audited statement of accounts.

84. It is submitted that the Revenue from Transmission Business as claimed by the Petitioner reconciles with the SoA. Also, the Revenue from Transmission business as approved for FY 2022-23 in Case No. 28 of 2021 dated 25.03.2022 of Rs. 73.49 Crore also reconcile with the amount claimed in the Petition. Hence, the Objector has no objections.

Aggregate Revenue Requirement and Revenue Gap/ (Surplus) for FY 2022-23

85. In view of the submissions made hereinabove, it is prayed that this Hon'ble Commission may allow in the True up and Revenue Gap / (surplus) of ARR for FY 2022-23, the allowable ARR in the following manner:

ARR of FY 2022-23 (Rs. Crore)

Particulars	Approved	Claimed	Allowable	Variation - approved and Allowable
Return On Equity	15.67	18.79	16.58	6%
Depreciation	24.66	22.84	17.87	-28%
Interest on Loan	5.56	28.43	2.21	-60%
Interest on Working Capital	2.71	5.35	2.81	4%
Operation and Maintenance Expenses	77.24	79.05	52.49	-32%
SLDC Charges	1.47	1.47	1.47	0%
Total ARR	127.31	155.93	93.44	-27%
Non-Tariff Income	18.59	5.15	5.15	-72%
Net ARR	108.72	150.77	88.29	-19%
Less SLDC ARR	2.94	2.94	2.94	0%
ARR for Transmission	105.78	147.83	85.35	-19%
Add: Correction of True up of FY 2017-18 vide corrigendum order dated 06.08.2021.	20.08		20.08	
Add: Revenue Gap/(Surplus) for FY 2018-19 True up	-31.39		-31.39	
Add: Revenue Gap/(Surplus) for FY 2019-20 True up	-20.98		-20.98	
ARR for Transmission	73.49	147.83	53.06	-28%
Accrued Terminal Benefits		27.01	27.01	
Total ARR	73.49	174.84	80.07	9%
Less: Revenue from Transmission business	73.49	78.72	78.72	7%
Revenue Gap / (Surplus)	-	96.12	1.35	

86. It is submitted that the Petitioner had a casual approach in submission of the True-up Petition while claiming Revenue Gap / (surplus) of FY 2022-23. It is submitted that the Hon'ble Commission has allowed the ARR and Revenue recovery from transmission business in the ARR Order for FY 2022-23 in Case No. 28 of 2021 dated 25.03.2022, after adjustment of Revenue Gap / (Surplus) of FY 2017-19 to FY 2019-20. However, the Petitioner has not adjusted the said approved Revenue Gap / (surplus) in ARR of FY 2022-23 resulting in claim of higher Revenue Gap.
87. In view of the above, this Hon'ble Commission is requested to approve the ARR amounting to Rs. 80.07 Crore against the claim of Rs. 174.84 Crore by the Petitioner for FY 2022-23.
88. It is further requested that this Hon'ble Commission may allow the Revenue Gap of Rs. 1.35 Crore against the Revenue Gap of Rs. 96.12 Crore claimed by the Petitioner while reviewing the ARR along with Tariff for the next period.
89. The above aspects may be taken into consideration. The Objector craves leave to add to the submission mentioned above and also to submit such material with the leave of the Hon'ble Commission as may be necessary in the ARR determination process. The Objector also craves leave to make oral submissions in the public hearing to be conducted by the Hon'ble Commission.

Date: 02.01.2024
Place: Shillong

BYRNIHAT INDUSTRIES ASSOCIATION



OBJECTOR

SL/Instrument No: 1415

Dated: 4th Jan - 2024

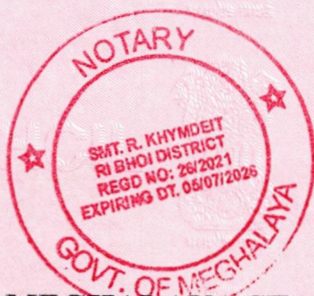
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INDIA NON JUDICIAL

Government of Meghalaya

e-Stamp

Certificate No. : IN-ML02459385816238W
 Certificate Issued Date : 02-Jan-2024 11:03 AM
 Account Reference : CSCACC (GV)/ mlscceg07/ ML-RBEVE0003/ ML-RB
 Unique Doc. Reference : SUBIN-MLMLCSCEG0704402699998791W
 Purchased by : BYRNIHAT INDUSTRIES ASSOCIATION
 Description of Document : Article 5 Agreement or Memorandum of an Agreement
 Property Description : AFFIDAVIT
 Consideration Price (Rs.) : 0
 (Zero)
 First Party : BYRNIHAT INDUSTRIES ASSOCIATION
 Second Party : Not Applicable
 Stamp Duty Paid By : BYRNIHAT INDUSTRIES ASSOCIATION
 Stamp Duty Amount(Rs.) : 100
 (One Hundred only)



BEFORE THE MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION, SHILLONG

IN THE MATTER OF:

APPROVAL OF TRUING UP OF TRANSMISSION BUSINESS FOR FY 2022-23 AND REVISION OF TARIFF FOR THE MEGHALAYA POWER TRANSMISSION CORPORATION LIMITED (MEPTCL) AND APPROVAL OF MULTI YEAR ARR FOR THE FOURTH CONTROL PERIOD FY 2024-25 TO FY 2026-27 UNDER THE MSERC (MULTI YEAR TARIFF) REGULATIONS, 2014 AND UNDER SECTION 62 AND 64 READ WITH SECTION 86 OF THE ELECTRICITY ACT 2003.

IE 0017315068

SMT. R. KHYMDEIT

Advocate & Notary

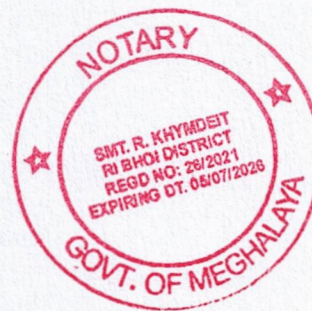
Regd. No. 26/2021

Expiring Dt: 5/7/2026

RI BHOI District



Prasanna Kumar Mishra



AND IN THE MATTER OF:

Meghalaya Power Transmission Corporation Ltd
Lum Jingshai, Short Round Road,
Shillong - 793 001, Meghalaya...Petitioner

Versus

Byrnihat Industries Association
Upper Baliyan, Umtru Road,
Byrnihat, Ri Bhoi District,
Meghalaya – 793101

...Objector

AFFIDAVIT IN SUPPORT

I Prasanna Kumar Mishra, son of Late J.B. Mishra, aged about 64 years, member of the Objector Association, resident of DONA Presidency, Six Floor, B-Block VIP Road, Six Mile, Guwahati-781022, do solemnly affirm as follows:

1. I am the member of Byrnihat Industries Association, the Objector in the above matter and am duly authorized by the said Objector to make this affidavit on its behalf.
2. I say that the facts contained in the accompanying objection is based on the records of the Objector Association maintained in its ordinary course of business and believed by me to be true. I say that the submissions are based on legal advise received and believed by me to be true.
3. I say that the annexures to the Objection are the true and correct copies of their original.

SMT. R. KHYNDEIT
Advocate & Notary
Regd. No. 26/2021
Expiring Dt: 5/7/2026
Ri Bhoi District





VERIFICATION

I, the deponent above named, do hereby verify the contents of the accompanying affidavit to be true to the best of my knowledge, no part of it is false and nothing material has been concealed there from.

Verified at Shillong on this 02nd day of January, 2024.



Identified by,
[Signature]
 (Miss J. Nongkseh).

[Signature]
 SMT. R. KHYNDEIT
 Advocate & Notary
 Regd. No. 26/2021
 Expiring Dt: 5/7/2026
 Ri Bhoi District

ANNEXURE -A

Byrnihat Industries Association (BIA)

Statement of Objections on the Petition for

APPROVAL OF TRUING-UP OF TRANSMISSION BUSINESS FOR THE FY 2022-23 AND REVISION OF TARIFF FOR THE MEGHALAYA POWER TRANSMISSION CORPORATION LIMITED (MePTCL) AND APPROVAL OF MULTIYEAR ARR FOR FOURTH CONTROL PERIOD I.E, 2024-25 TO 2026-27 UNDER THE MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION (MULTI YEAR TARIFF) REGULATIONS, 2014 AND UNDER SECTIONS 62 & 64 READ WITH SECTION 86 OF THE ELECTRICITY ACT 2003.

Petition filed by: Meghalaya Power Transmission Corporation Limited (MeTGCL)

Objection raised by: **Byrnihat Industries Association (BIA)**

Petition Filed on: 28/11/2023

DECEMBER 2023

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ENERGY OPTIMAA
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1 STATEMENT OF OBJECTIONS BY THE OBJECTOR

1.1 BACKGROUND

1.1.1 The Government of Meghalaya has unbundled and restructured the Meghalaya State Electricity Board with effect from 31 March, 2010 into the Generation, Transmission and Distribution businesses. The erstwhile Meghalaya State Electricity Board was transformed into four successor entities, viz:

1. Generation: Meghalaya Power Generation Corporation Limited (MePGCL)
2. Transmission: Meghalaya Power Transmission Corporation Limited (MePTCL)
3. Distribution: Meghalaya Power Distribution Corporation Limited (MePDCL)
4. Meghalaya Energy Corporation Limited (MeECL) a holding company.

1.1.2 The aforesaid scheme was further amended on 31 March, 2012, which led to the transfer of assets and liabilities including all rights and obligation and contingencies with effect from 1 April, 2012 to the aforementioned four companies.

1.1.3 The Government of Meghalaya issued further notification on 29.04.2015 notifying the revised statement of assets and liabilities as on 1st April, 2012 to be vested in Meghalaya Energy Corporation Limited. As per the said notification issued by the Government of Meghalaya a separate corporation "Meghalaya Power Transmission Corporation Limited" was incorporated for undertaking Transmission Business.

1.1.4 The Transmission company namely Meghalaya Power Transmission Corporation Limited (hereinafter referred to as the "**MePTCL**" or "**Petitioner**"), has begun segregated commercial operations as an independent entity from 1st April 2013 onwards.

1.1.5 MePTCL has filed the Petition in the matter of Truing Up of Expenses for FY 2022-23, Revision in Tariff for FY 2023-24 and Approval of Multi Year ARR for the Control Period FY 2024-25 To FY 2026-27 under Section 62 and 64 read with Section 86 of the Electricity Act 2003 and provisions of MSERC (Multi Year Tariff) Regulations, 2014 (hereinafter referred to as "**Tariff Regulations 2014**"). BIA is hereby filing its objections for in respect of True-Up of FY 2022-23.

1.1.6 The present Statement of Objections is being filed on behalf of the Byrnihat Industries Association (hereinafter referred to as the "**BIA**" or "**Respondent**" or "**Objector**"), a society registered under the Meghalaya Societies Registration Act, 1983 having its registered Office at Byrnihat, Ri-Bhoi District, Meghalaya. The Byrnihat Industries Association (hereinafter referred to as "**BIA**" or "**Objector**" or "**Respondent**") was formed by the different industrial units for the welfare, smooth and effective functioning of its units. The Petitioner regularly participates in the proceedings related to determination of ARR and Tariff by the Hon'ble Meghalaya State Electricity Regulatory Commission (hereinafter referred to as "**Hon'ble Commission**") and takes up the other issues concerning its Members. BIA regularly participates in the proceedings pertaining to Tariff year on year basis and is therefore an unparalleled stakeholder.

- 1.1.7 The special characteristics of the Industrial consumers that benefit the Utilities are:
- i. They are the subsidizing category of consumers for the utilities. Hence, they are the revenue earners ensuring better returns for the utilities.
 - ii. The Load curve and consumption pattern enable better capacity utilization and low Cost of Service for the Utilities in comparison to LT consumer categories.
- 1.1.8 In recent years, Meghalaya has witnessed firming up of power capacity from several sources and an increase in own generation capacity, thus moving towards becoming a net power exporter from being a power deficit State. Being abundantly rich in Hydro Power Generation, the consumers in the State of Meghalaya ought to have a considerably lower power procurement costs resulting into lower tariffs across all the categories along with the reasonable industrial tariffs. However, the tariff hikes in the recent years have disproportionately burdened the industrial consumers of Meghalaya.
- 1.1.9 The brief facts, propositions, analysis, grounds and point wise objections to the instant Petition are narrated in the subsequent sections:

2 METHODOLOGY ADOPTED FOR TRUE UP PETITION FOR FY 2022-23

2.1 BACKGROUND

- 2.1.1 Under the para related to methodology adopted by MePTCL for various components of the ARR, MePTCL has provided the assumptions on certain head.

2.2 GROSS FIXED ASSETS

- 2.2.1 Under the Head Gross Fixed Assets, the Petitioner has mentioned that the Opening Gross Fixed Assets have been considered as the closing GFA allowed by the Hon'ble Commission in the true up order dated **21st November 2023** for the FY 2021-22. However, there seems to be an error apparent by the Petitioner in reference to the date mentioned. It is humbly submitted that the Hon'ble Commission has undertaken the Approval of True-up of Transmission Business for FY 2021-22 vide Case No. 2/2023 vide order dated 13.11.2023. Hence the reference of the date in the petition is required to be corrected.

2.3 TREATMENT OF GRANTS AND CONSUMER CONTRIBUTION

- 2.3.1 The Petitioner has submitted that as per IND AS 20, MePTCL has to account for the grants received even if the asset against the grant is not capitalized and hence consideration of entire grants in the statement of accounts against the Gross Fixed Assets would not be a correct methodology.
- 2.3.2 However, the Petitioner has failed to provide the accounting treatment of the grants specified in the said IND AS. As per "**Indian Accounting Standard (Ind AS) 20 - Accounting for Government Grants and Disclosure of Government Assistance**", it states the following reference:

"12 Government grants shall be recognised in profit or loss on a systematic basis over the periods in which the entity recognises as expenses the related costs for which the grants are intended to compensate.

Presentation of grants related to assets

24 3 Government grants related to assets, including non-monetary grants at fair value, shall be presented in the balance sheet either by setting up the grant as deferred income or by deducting the grant in arriving at the carrying amount of the asset.

25 4 Two methods of presentation in financial statements of grants or the appropriate portions of grants related to assets are regarded as acceptable alternatives.

26 5 One method recognises the grant as deferred income that is recognised in profit or loss on a systematic basis over the useful life of the asset.

27 6 The other method deducts the grant in calculating the carrying amount of the asset. The grant is recognised in profit or loss over the life of a depreciable asset as a reduced depreciation expense."

- 2.3.3 As stated in the above para of IND AS -20, it clearly states that though the grant is to be

recognized as balance sheet item, as per the income approach, the government grants should be recognised in profit or loss on a systematic basis over the periods in which the entity recognises as expenses the related costs for which the grant is intended to compensate which is depreciation. Hence, when depreciation on assets has been calculated which is funded by the Grant as an expenditure, the deferred income of the grant also is required to be addressed on a systematic basis.

- 2.3.4 Accordingly, the Hon'ble Commission has considered the approach of pro-rata basis of the depreciation in proportion to the grant to be considered as income and adjusted in depreciation amount which, in the submission of the BIA, is a correct approach.
- 2.3.5 Further, as submitted by MePTCL with respect to approach adopted by other State Commissions on inclusion of CWIP cost, it is necessary to maintain the detail of Grant received asset wise so as to identify the grant which has been capitalized and the grant which is under CWIP. Since considering the cash flow position, the grant as received is considered for the capitalisation of the assets based on the required cash flow, the whole grant has been considered against the capitalisation of the assets which seems to be a correct issue. Alternatively, MePTCL may have to provide the details of the grant unutilized in capitalisation.

2.4 PHYSICAL AND OPERATIONAL PERFORMANCE

A. Growth in Infrastructure

- 2.4.1 The Petitioner has submitted that there has been substantial growth in terms of the infrastructure and there has been substantial increase in the infrastructure which shows MePTCL's commitment to improve the performance and cater to the growing demand of the consumers in an efficient manner.
- 2.4.2 However, it can be observed from the Table 1 and 2 in the Petition, that there is no increase in Substation in MVA capacity and bay and only 1.28% increase in Line length in FY 2022-23 as compared to FY 2021-22 which clearly highlights that the development of Transmission infrastructure in the State has been highly ignored and there has been no breakthrough in achievement of any growth in the power sector.

Table 2-1: Physical Parameter of Transmission System

Parameter	FY 2021-22	FY 2022-23	Growth
Substation in MVA	1790	1790	0%
No. Of Substation Bays	200	200	0%
Lines (Ckt/km)	1476.112	1495.012	1.28%

B. TRANSMISSION SYSTEM AVAILABILITY FACTOR AND TRANSMISSION LOSSES

- 2.4.3 The Petitioner has submitted the details of the Transmission availability and transmission loss for past 5 years.
- 2.4.4 The details of the Transmission availability and Transmission loss is outlined in the following table:

*Table 2-2: Transmission System Availability and Transmission Losses*

Particulars	2018-19	2019-20	2020-21	2021-22	2022-23
Transmission System Availability (%)	99.69	99.55	98.65	99.35	99.22
Transmission Loss (%)	4.08	3.78	3.49	3.01	3.16

- 2.4.5 As can be observed from the submission of the Petitioner, the Transmission system Availability has been showing the decreasing trend and Availability claimed in FY 2022-23 is lower than past year. Further, in the Petition of Determination of Multiyear Aggregate Revenue Requirement (ARR) for FY 2021-22 to FY 2023-24 and Determination of Transmission and open access Tariff for FY 2021-22, the Petitioner has projected the Transmission system Availability of 99.80% against which the actual achieved is 99.22%.
- 2.4.6 Also, with respect to the Transmission loss it has witnessed an increasing trend from FY 2020-21 whereby the loss has increased from 3.01% to 3.16%.
- 2.4.7 However, the Petitioner has not provided any justification for such inefficiencies and burden of the same cannot be pass on to the end consumers.

3 TRUE UP - AGGREGATE REVENUE REQUIREMENT FOR FY 2022-23

3.1 GROSS FIXED ASSETS

3.1.1 The Petitioner has provided the reference of the True-up order of FY 2021-22 as order dated 21/11/2023 in Case No. 02 of 2023, however the actual date of the order is 13/11/2023 and the same is requested to be modified.

3.1.2 It has been observed and is humbly submitted that the opening GFA balance considered by the petitioner is not in line with the closing balances as approved by the Hon'ble Commission in the True up Order (for FY 2021-22) in Case No. 2/2003 dated 13.11.2023. For the sake of convenience, the approved closing balance of GFA as per the said Orders and the balance considered by MePTCL are depicted below:

Table 3-1: Opening Balance of GFA of MePTCL as a whole for FY 2022-23 (Rs. Crore)

Name of the Station	Approved Cl. GFA for FY 2021-22	Op. GFA for FY 2022-23 as per MePTCL	As per Audited Accounts*	Variation
MePTCL	508.45	508.48		-0.03

*-FA schedule not available in the enclosed Financial Statement as full set was missing

3.1.3 As can be outlined from the above table, the total variation in approved GFA vis-à-vis GFA considered by MePTCL for opening balance of FY 2022-23 is marginal.

3.1.4 It is submitted that Audited Accounts submitted by MePTCL does not include schedule related to Fixed Assets to verify the GFA considered by MePTCL. Accordingly, BIA reserves the right to make additional submission once the said schedule is provided by MePTCL.

3.1.5 Further, with regards to the Addition during the year, MePTCL has claimed the asset addition of Rs. 36.96 Crore without providing any details and substantial document supporting such claim. As can be observed from Table 1 of this report, there is hardly any significant addition in the transmission infrastructure and against an increase of 1.28% in Line, MePTCL has claimed the capitalisation of Rs. 36.96 Crore, which needs a prudence check.

3.1.6 In view of the approved number of the Hon'ble Commission's Order, the closing GFA for the FY 2021-22 must be considered as the opening GFA for the True up of FY 2022-23.

3.1.7 Further, in the absence of any verifiable and substantiating documents or justification on the nature of such addition to the GFA, such claims may not be admitted for Truing up of ARR for the FY 2022-23.

3.1.8 Also, it is submitted that against the capitalisation of Rs. 292.74 Crore approved in MYT Business plan order in Case No. 03/2021, the Petitioner has claimed only Rs. 36.96 Crore which clearly highlights that many of the schemes has been delayed which ultimately will result in cost / time over run cost. Such cost may not be allowed in the future and Petitioner may be asked to provide the status of each scheme along with the spillover details.

3.1.9 It is submitted that as per the Regulation 29 of the Tariff Regulations 2014, Additional

Capitalization after the date of Commercial operation is admissible in select cases only as shown below:

“29 Additional Capitalisation

*29.1 The following capital expenditure, **actually incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission**, subject to the prudence check:*

- a) Due to Un-discharged liabilities within the original scope of work;*
- b) On works within the original scope of work, deferred for execution;*
- c) To meet award of arbitration and compliance of final and unappealable order or decree of a court arising out of original scope of works;*
- d) On account of change in law;*
- e) On procurement of initial spares included in the original project costs subject to the ceiling norm specified;*
- f) Any additional works/services, which have become necessary for efficient and successful operation of a generating station or a transmission system or a distribution system but not included in the original capital cost:*

Provided that original scope of work along with estimates of expenditure shall be submitted as a part of Business Plan: Provided further that a list of the deferred liabilities and works deferred for execution shall be submitted along with the application for final tariff after the date of commercial operation of the generating Unit/Station or transmission system or distribution system. Provided further that the assets forming part of the project but not put to use, shall not be considered.

29.2 Impact of additional capitalization on tariff, as the case may be, shall be considered during Truing Up of each financial year of the Control Period.”

3.1.10 In view of the above Regulations and in the absence of any necessitating document put forth by the Petitioner, the Additional Capitalization claim is not admissible and allowing the claim would be in contravention to the Tariff Regulations, 2014.

3.1.11 In view of the above arguments, the allowable GFA for the FY 2022-23 is summarized in the table shown below:

Table 3-2 : Proposed GFA for FY 2022-23 (Rs. Crores)

Particular	As per MePTCL	Proposed
Opening GFA	508.48	508.48
Addition during the Year	36.96	0.00
Retirement during the Year	0.02	0.02
Closing GFA	545.42	508.46
Average GFA	526.95	508.47

3.2 CAPITAL STRUCTURE

3.2.1 The Petitioner has provided the break-up of the capital structure to be considered for FY 2022-23 outlining the fixed assets, CWIP, Debt, Equity and Grant with the submission that the grants available in the books of accounts do not pertain to the Gross Fixed Assets only but also to the capital works in progress.

3.2.2 The Respondent has already made the detailed submission on the approach adopted by

the Petitioner in para 2.3 hereinabove. However, the Respondent would like to highlight that there is inconsistency in the figures considered related to GFA, Loan and Equity in Table 4 and the figures outlined in the related section of the Petition without providing any clarification / justification for such deviation. The Respondent hereby submits the variance in the different table as outlined in the following table:

Table 3-3: Variance in GFA, Loan and Equity (Rs. Crore)

Particulars	Table 4	Related Table*	Difference
Equity in Opening GFA	107.49	133.71	-26.22
Closing Equity	108.48	134.70	-26.22
Loans In GFA	250.81	261.21	-10.40
Loans in Closing GFA	253.12	262.18	-9.06

*Equity – Table 5 and Loan – Table 7 of the Petition

- 3.2.3 Such error in computation highlights the Petitioner's approach and is observed that the True up Petition has been filed casually with no seriousness at all. Further, no excel working has been provided by the Petitioner on the website to assess the calculation of the Petitioner.
- 3.2.4 In lieu of the aforesaid, it is requested that the Hon'ble Commission may direct the Petitioner to follow the due procedure while undertaking True up/ tariff matters

3.3 RETURN ON EQUITY

- 3.3.1 The Petitioner submitted that it has claimed Return on Equity in line with the provisions of Regulation 27 of the MYT Regulations 2014 amounting to Rs. 18.79 Crore for the FY 2022-23.
- 3.3.2 The claim made by the petitioner is based on the allocation of the grants to total capex (GFA + CWIP) and applying debt:equity ratio of 70:30 as per the MYT Regulations 2014. It is submitted that the figures considered by the Petitioner are based on IND-AS adjustment, however, the Hon'ble Commission in past tariff orders has clearly stated that IND AS norms shall not be considered and for tariff purpose only historical cost will be considered for determination of tariff.
- 3.3.3 According to Regulation 31 of MSERC MYT Regulations 2014 -
- "Return on equity shall be computed on the equity base determined in accordance with regulation read with 27 and shall not exceed 14%.*
- Provided that where equity actually deployed is less than 30% of the capital cost, the actual equity shall be considered for determination of tariff."*
- 3.3.4 It must be iterated that the Petitioner has completely overlooked the approach adopted by the Hon'ble Commission in the past tariff order whereby the Grant is to be adjusted with the GFA (Rationale of the Objector already provided in para 2.3 hereinabove) and accordingly the equity is required to be recomputed. Also, Regulations does not provide for excluding the Grants and Contributions utilized for capital work in progress for computation of Return on Equity.
- 3.3.5 Further, the Licensee has not filed the details of capitalization for the FY 2022-23. While

the Annual Financial statement does reveal asset addition, there is no justification by the Petitioner as to what such Capitalization is for. In the absence of substantiating evidence, no equity addition is proposed to be considered for the True up of ARR for the FY 2022-23.

- 3.3.6 As can be analysed from the above Table 3-3 of the submission made by the Respondent, there is a mismatch in the equity computed under Capital Structuring section and equity considered to claim RoE by Petitioner for which no clarification / justification has been provided.
- 3.3.7 The Objector proposes that the Petitioner's claim is void of any meaningful rationale and in the absence of documentary evidence, the Return on equity must be recomputed based on the approach adopted in the past tariff order. The Objector has also considered the grants received during the year for computation of Return on Equity as shown in the table below:

Table 3-4: Return on Equity for FY 2022-23 (Rs. Crore)

Particulars	Formula	Recomputed	Allowable*
GFA as on 31.03.2022	A		508.48
Addition during year	B		0.00
(-) Retirements	C		0.02
GFA as on 31.03.2023	$D = A+B-C$		508.46
Average Assets	$E = (A+D)/2$		508.47
Less: Average Grants/contributions as per note 17.1-SOA	F		117.50
Net Capital cost for ROE	$G = E - F$		390.97
Opening Equity	H	133.71	119.63
Closing Equity Capital	$I = G \times 30\%$	134.70	117.29
Average Equity	$J = (H + I)/2$	134.21	118.46
ROE at 14%	$K = 14\% \times J$	18.79	16.58

*-computed considering no additional capitalisation allowed as per para 3.1 of this report

- 3.3.8 The Respondent humbly submits before the Hon'ble Commission to approve Return on Equity as Rs. 16.58 Crore for the FY 2022-23.

3.4 INTEREST ON LOAN

- 3.4.1 As per Petitioner, the Interest on loan has been computed as per the provisions of Regulations 27 and 32 of MYT Regulations 2014, whereby the weighted average rate of interest has been computed on the actual loans.

- 3.4.2 As per the Regulation 32.1 and 32.2 of MSERC Regulations 2014:

32.1 *Interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the schedule of loan repayment, terms and conditions of loan agreements, bond or debenture and the lending rate specified therein. Provided that the outstanding loan capital shall be adjusted to make it consistent with the loan amount determined in accordance with regulation 27.*

32.2 *The interest and finance charges attributable to capital work in progress shall be excluded.*

Provided that neither penal interest nor overdue interest shall be allowed for computation of tariff.

- 3.4.3 Since no break-up of interest has been provided, a detail scrutiny may be undertaken that whether any penal interest or overdue interest is included in the interest claimed by Petitioner.
- 3.4.4 Further, the Hon'ble Commission in the past tariff order has considered the State Government loan with 10% overdue payment which has not been considered by the Petitioner.
- 3.4.5 The Petitioner has tried to claim the loan on normative basis whereas Regulations 32 clearly states that the interest on loan to be allowed considering the outstanding loan as per accounts which is not considered by the Petitioner.
- 3.4.6 Based on the approach as adopted by the Hon'ble Commission in past order, the Respondent has tried to recompute the interest on loan and request to consider the same while allowing the interest on loan cost for final computation of ARR.

Table 3-5: Allowable Interest on Loan for FY 2022-23 (Rs. Crore)

Particulars	Opening balance	Repayment	Cl. Loan	Average Loan	Interest Rate	Interest
REC of BIA 400/200 KV	7.21	1.34	5.87	6.54	11.00%	0.72
State Govt Loan	16.89	1.69	15.20	16.05	9.31%	1.49
Total	24.10	3.03	21.07	22.59	9.80%	2.21

3.5 DEPRECIATION

- 3.5.1 As per Petitioner, the depreciation has been computed as per the methodology adopted by Hon'ble Commission in the previous true ups and the opening balance of GFA has been considered as per the GFA approved by Hon'ble Commission in the order dated 21/11/2023 in Case No. 01 of 2023 in true up of 2021-22.
- 3.5.2 The Respondent would like to highlight the casual approach adopted by the Petitioner whereby even the reference of the order is erroneous. The actual reference of the order is Order dated 13.11.2023 in Case No. 02/2023 in True-up of FY 2021-22.
- 3.5.3 The Petitioner has claimed the depreciation of Rs. 22.84 crore after adjusting the average grant of Rs. 79.60 Crore which is adjusted grant in proportion to GFA and CWIP.
- 3.5.4 As per the MYT Regulations 2014, Depreciation is defined as:

“33 Depreciation

33.1 *For the purpose of tariff determination, depreciation shall be computed in the following manner:*

a) The asset value for the purpose of depreciation shall be the historical cost of the assets as approved by the Commission where:

The opening asset's value recorded in the Balance Sheet as per the Transfer Scheme Notification shall be deemed to have been approved, subject to such modifications as may be found necessary upon audit of the accounts, if such a Balance Sheet is not audited.

Consumer contribution or capital subsidy/ grant etc shall be excluded from the asset value for the purpose of depreciation.



- b) For new assets, the approved/accepted cost for the asset value shall include foreign currency funding converted to equivalent rupee at the exchange rate prevalent on the date of foreign currency actually availed but not later than the date of commercial operation.
- c) **The salvage value of the assets shall be considered at 10% and depreciation shall be allowed upto maximum of 90 % of the capital cost of the asset.**
- d) **Depreciation shall be calculated annually as per straight-line method at the rates specified in CERC (Terms and Conditions of Tariff) Regulations, 2009 as may be amended from time to time.**
Provided that land is not a depreciable asset and its cost shall be excluded from the capital cost while computing the historical cost of the asset.
- e) **Depreciation shall be chargeable from the first year of operation. In case of operation of the asset for part of the year, depreciation shall be charged on pro-rata basis.**
- f) *The remaining depreciable value as on 31st March of the year closing after a period of 12 years from the date of commercial operation shall be spread over the balance useful life of the asset."*

3.5.5 The Petitioner has not substantiated its claim of Addition in Capital Cost by way of any documentary evidence, hence the same is not admissible under the Tariff regulations 2014.

3.5.6 The Petitioner has not considered the amortization of grants as per the approach adopted by the Hon'ble Commission in the past tariff order and has adjusted the grants considering the same utilised under Assets and CWIP which also contravenes the provisions of the MYT Regulations 2014.

3.5.7 Further, the depreciation shall be calculated upto 90% of the Gross fixed assets as per the Regulations.

3.5.8 In view of the methodology adopted by the Hon'ble Commission, the allowable Depreciation for FY 2022-23 is recomputed as per the table below:

Table 3-6: Allowable Depreciation as per FY 2022-23 (Rs. Crore)

Particulars	Opening GFA	Addition	Retirement	Closing GFA	90% of GFA	% of Dep	Depn.
Land	9.74			9.74	8.77	0.00%	-
Buildings	17.89			17.89	16.10	3.34%	0.54
Plant and Equipment	153.83			153.83	138.45	5.28%	7.31
Furniture and Fixtures	0.99			0.99	0.89	6.33%	0.06
Vehicles	0.21			0.21	0.19	9.50%	0.02
Office Equipment	7.15			7.15	6.44	6.33%	0.41
Hydraulic works	0.09			0.09	0.08	5.28%	0.00
Other Civil works	12.91			12.91	11.62	3.34%	0.39
Lines and Cable Network	305.64			305.64	275.08	5.28%	14.52
Total	508.45	0.00	0.00	508.45	457.61	5.24%	23.25
Average assets					508.45	4.57%	
Less : Depreciation on Grants and Contribution	89.26			145.74	117.50		5.37
Depreciation to be allowed							17.87

3.5.9 Accordingly, as computed in the table above, it is requested to allow Rs. 17.87 Crore

depreciation for FY 2022-23.

3.6 OPERATION AND MAINTENANCE EXPENSES

3.6.1 The Petitioner has submitted that it has claimed O&M expenses of Rs. 79.05 Crore as per the audited accounts of FY 2022-23 and similar approach has been adopted by the Hon'ble commission in the past orders.

- a. Employee Expenses as per the audited accounts and terminal benefits have been accounted as per actuarial valuation.
- b. R&M and A&G expenses as per the audited accounts
- c. O&M expenses of MeECL has been apportioned in the three companies in equal proportion.
- d. A&G expenses of MeECL also includes the penalty of Rs.1.21 Cr which has been excluded from the claim as a principle of honesty.

3.6.2 It has been observed that the Petitioner has incorporated expenditures towards holding company expenses while claiming O&M Expenses.

3.6.3 At the outset, it is stated that the claim made by the Petitioner is in contravention to the Tariff Regulations 2014. The Petitioner has not proposed any norms in the FY 2018-21 control period nor has it proposed any norms for the control period FY 2021-24.

3.6.4 The relevant extracts of the Tariff Regulations 2014 are reproduced below to highlight the above arguments:

"94 Operation and Maintenance Expenses

94.1 *Operation and Maintenance Expenses or O&M Expenses shall mean the total of all expenditure under the following heads:-*

- Employee Cost
- Repairs and Maintenance
- Administration and General Expenses.

.....

94.3 *The Commission shall ensure that the O&M expense are in accordance with the norms fixed by the Commission, and any excess or shortage over the norm shall have to be justified by the licensee.*

94.4 *In the absence of any norms for O&M expenses, the Commission shall determine operation and maintenance expenses based on prudence check of the estimates submitted by the licensee and consumer price index/wholesale price index/inflation."*

3.6.5 It is further submitted that no provision of the Tariff Regulations 2014 of the Hon'ble Commission allows expenditures of a holding company to be passed through in Tariff and the applicability of the Tariff regulations is only for Gencos, Transcos and Discoms as defined in the Tariff regulations 2014 shown below:

"1.5 They shall be applicable to all existing and future Generating Companies, Transmission Licensees and Distribution Licensees and their successors, if any;"

3.6.6 The Petitioner submission does not take into consideration the above quoted Regulatory provisions and the claim pertaining to Holding company expense is not tenable. In

accordance with the above reasoning, many SERCs disallow the expenditures pertaining to Holding company as evident from the Hon'ble UPERC observations from the Order dated 29.07.2021 which are shown below:

"4.6.31. Thus, regarding UPPCL's O&M Expenses, it is clear that the Commission had not allowed such expenses in the previous orders giving clear directions that from FY 2014-15 onwards the Licensees should manage procurement of power from the O&M Expenses allowed to them. Accordingly, the O&M expenses claimed by the State Discoms towards O&M Expenses of UPPCL allocated to them are not allowed. The Commission again reiterates that the procurement of power is the responsibility of the Distribution Licensees for which the Commission allows considerable amount of O&M Expenses and interest on working capital to the Licensees.

It is further observed that some of the State Discoms have claimed UPPCL's O&M expenses by merging them as part of O&M expenses under different sub-heads i.e. employee, R&M & A&G expenses. As the Petitioners submitted that UPPCL has now allocated its O&M expenses to its subsidiary State Government Distribution Licensees, in the books of accounts with effect from FY 2019-20, the Commission has done the prudence check of O&M Expenses of UPPCL from the balance sheet of the State Discoms and the same, as found in the balance sheets, have been disallowed."

3.6.7 In view of the same, the claim of the petitioner towards O&M Expenses of the holding company is unjust and does not merit any consideration by the Hon'ble Commission.

3.6.8 However, considering the approach as adopted by the Hon'ble Commission, the Respondent has recalculated the allowable O&M expenses in the subsequent para:

A. Employee Expenses

3.6.9 The Petitioner has claimed Rs. 69.75 Crore which includes apportionment of employee benefit expenses of Holding Company for Rs.11.92 Crore and Rs.1.62 Crore as 1/3rd of the employee expenses of MeECL for True up of FY 2022-23.

3.6.10 The breakup figures of above Employee benefit expenses include Rs.12.27 Crore towards Pension, Pension contribution to Deputation personnel which shall be met from Trust Funds. The remaining apportionable expenses may be considered for True up of FY 2022-23.

3.6.11 Further no detail has been provided for Rs. 1.62 Crore and as submitted by the Respondent, the O&M cost of the holding company may not be allowed in True-up of Distribution licensee.

3.6.12 Also, the employee expenses approved by the Hon'ble Commission for FY 2021-22 is Rs. 46.89 Crore (Case No. 2/2023 dated 13.11.2023), against which the Petitioner has claimed Rs. 69.75 Crore resulting in increase of around 48.75%. The Petitioner in the petition has not provided any justification for such huge increase.

3.6.13 The approach of the petitioner seems to be unjust claiming the whole employee expenses which has increased to the extent of 48.75% without any justification and ultimately will be a burden on the end consumers.

3.6.14 The Respondent submits that Regulations 94.4 of MYT Regulations 2014 clearly has

stated that in absence of any norms, the expenses can be determined based on prudence check and Consumer price index (CPI)/wholesale price index (WPI)/inflation.

94.4 *In the absence of any norms for O&M expenses, the Commission shall determine operation and maintenance expenses based on prudence check of the estimates submitted by the licensee and consumer price index/wholesale price index/inflation.*

3.6.15 Therefore, as per Regulation 94.4 of MYT Regulations 2014, the Respondent requests the Hon'ble Commission to consider the submission made by the Respondent and if the cost exceeds the inflation index, then the same is required to be limited as per the Regulations.

3.6.16 For FY 2022-23, escalation of 5.18% is presumed considering the weighted average increase in WPI and CPI in 2022-23 with composite index of 50% each as stated by MePTCL in para 5.8 of the Petition.

Table 3-7: Employee Cost for FY 2022-23 (Rs. Crore)

Particulars	Formula	Allowable
Employee cost as per O&M norm		
Employee cost for FY 2021-22	A	46.89
Escalation Factor -Avg of CPI / WPI	B	5.18%
Employee cost as per O&M norm	$C = AX (1+B)$	49.32
Actual Employee Cost computed		
Salaries and wages (Note. no.27 of SoA)	D	34.60
Contributions to provident and other funds	E	1.46
Apportionment of Employee Benefit Expenses (from Holding Company)		
(a) Salaries and wages of Deputationists (Note. no. 22 of MeECL SoA)	F	8.01
(b) Staff welfare expenses, insurance etc.	G	0.01
(c) Contribution to CPS (Corporation Contribution)	H	0.06
Total Employee Expenses	$I = (D \text{ to } H)$	44.14
Net Actual Employee Expense admissible for True up	$J = \text{MIN}(C,I)$	44.14

B. R&M and A&G Expenses

3.6.17 The R&M expenses claimed by the Petitioner is Rs. 5.76 Crore which includes the apportionment of the MeECL expenses of Rs. 0.34 Crore also.

3.6.18 The A&G expenses claimed by the Petitioner is Rs. 3.54 Crore which includes the apportionment of the MeECL expenses of Rs. 0.61 Crore also.

3.6.19 The Respondent would like to reiterate its submission that the claim of the petitioner towards Expenses of the holding company is unjust and does not merit any consideration by the Hon'ble Commission.

3.6.20 The Overall R&M and A&G expenses claimed for FY 2022-23 is Rs. 9.30 Crore whereby the Hon'ble Commission has approved Rs. 11.15 Crore for FY 2021-22 which highlights the reduction in the cost and the Respondent recognize the same.

3.6.21 As submitted above, as per Regulation 94.4 of MYT Regulations 2014, the Respondent request the Hon'ble Commission to reconsider the submission made by the Respondent and if the cost exceeds the inflation index, then the same to be limited as per the

Regulations.

- 3.6.22 The Respondent has recalculated the R&M and A&G cost as per the Regulations 94.4 of MYT Regulations 2014 and requests the Hon'ble Commission to consider the same.

Table 3-8: Allowable R&M and A&G expenses for FY 2022-23 (Rs. Crore)

Particulars	Formula	Allowable
R&M and A&G cost as per O&M norm		
R&M and A&G cost for FY 2021-22	A	11.15
Escalation Factor - Avg of CPI / WPI	B	5.18%
R&M and A&G cost as per O&M norm	$C = \frac{AX}{(1+B)}$	11.73
Actual R&M Cost computed		
Actual R&M and A&G Cost (Note. no.30 of SoA)	D	8.35
Net Actual R&M and A&G expense admissible for True up	$E = \min(C,D)$	8.35

- 3.6.23 Based on the above submission, the Respondent request to allow the following O&M expenses for FY 2022-23:

Table 3-9: O&M Expenses for FY 2022-23 (Rs. Crore)

O&M Cost	Claimed	Allowable
Employee Expenses	69.75	44.14
R&M Cost	5.76	8.35
A&G Cost	3.54	
Total	79.05	52.49

3.7 INTEREST ON WORKING CAPITAL

- 3.7.1 The Petitioner has claimed the Interest on working capital of Rs. 5.39 Crore as per Regulation 34.2 of the 2014 Tariff Regulation for distribution business.
- 3.7.2 It has been observed that while computing the interest on Working Capital, the Petitioner has considered the O&M expenses for two months, whereas Regulation 34.2 clearly states that the to estimate the level of working capital, the O&M expenses is required to be considered for 1 month only. Hence the approach adopted by the Petitioner is in contravention to the provisions of the MYT Regulations and wants to pass on their inefficiency burden on the end consumers with higher tariff.
- 3.7.3 Thus, there is a consequential change as per the analysis of the Respondent and the same is summarized below:

Table 3-10: Interest on Working Capital (Rs. Crore)

Interest on Working Capital	Claimed	Allowable
O&M expenses for 1 Month	13.18	4.37
Maintenance Spares at *1% of escalation at 6%	5.18	5.39
Receivables for 2 Months	25.47	13.12*
Total	43.82	22.88
Interest Rate (%) (SBIAR as on 01.04.2022)	12.30%	12.30%
Interest on Working Capital	5.35	2.81

*-Actual revenue of Rs. 78.72 Crore for FY 2022-23 has been considered

3.8 NON-TARIFF INCOME

- 3.8.1 The Petitioner has claimed the Non-Tariff income of Rs 5.16 Crore as per the statement of accounts with certain exclusions such as Amortization of Grant.
- 3.8.2 It has been observed that the Petitioner has not claimed Revenue Grants from UDAY, Amortization of grants / consumers contribution to the extent not adjusted in depreciation, lower DPC, etc.
- 3.8.3 The reconciliation of the Non-Tariff Income as claimed by the Petitioner and as per SoA is outlined below:

Table 3-11: Non-Tariff Income for FY 2022-23 (Rs. Crore)

	Non-Tariff Income	Claimed	Accounts
A	Other Income		
1	Interest Income from Banks	0.79	0.79
	Sub-Total A	0.79	0.79
B	Other Non-Operating Income		
a	Scrap Sale		-
b	AMC Charges	0.69	0.69
c	Rental and hiring income	0.14	0.14
d	Discount Received		-
e	Fees and Penalties	0.16	0.16
f	Sale of Tender forms	0.01	0.01
g	Miscellaneous receipts	0.20	0.20
h	Amortisation of Grants		2.20
	Sub-Total B	1.20	3.40
C	MeECL Non-Tariff Income	3.16	3.16
D	Grand Total - Non-Tariff income	5.15	7.35
E	Depreciation grant considered		2.20
F	Total Non-Tariff Income as per Audited accounts		5.15

3.9 REVENUE FROM TRANSMISSION BUSINESS

- 3.9.1 As per the Petitioner, the Revenue from Sale of Power has been considered as per the audited statement of accounts.
- 3.9.2 The Respondent submits that the Revenue from Transmission Business as claimed by the Petitioner does reconcile with the SoA. Also, the Revenue from Transmission business as approved for FY 2022-23 in Case No. 28 of 2021 dated 25.03.2022 of Rs. 73.49 Crore also reconcile with the amount claimed in the Petition. Hence, the Respondent has no say on it.

Table 3-12: Revenue from Transmission Business

Particulars	Claimed
Wheeling Charges	73.49
SLDC Charges from MePGCL	1.94

Particulars	Claimed
SLDC Charges from MePTCL	1.47
Total Revenue	76.90
Less: SLDC Charges from MePTCL	1.47
Net Revenue	75.43
STU Charges and Open Access Charges	2.93
SLDC Charges	0.36
Total Revenue	78.72

3.10 AGGREGATE REVENUE REQUIREMENT AND REVENUE GAP / (SURPLUS) FOR FY 2022-23

3.10.1 In view of the submissions made hereinabove, it is prayed that this Hon'ble Commission may allow in the True up and Revenue Gap / (surplus) of ARR for FY 2022-23, the allowable ARR in the following manner:

Table 3-13: ARR of FY 2022-23 (Rs. Crore)

Particulars	Approved	Claimed	Allowable	Variation - approved and Allowable
Return On Equity	15.67	18.79	16.58	6%
Depreciation	24.66	22.84	17.87	-28%
Interest on Loan	5.56	28.43	2.21	-60%
Interest on Working Capital	2.71	5.35	2.81	4%
Operation and Maintenance Expenses	77.24	79.05	52.49	-32%
SLDC Charges	1.47	1.47	1.47	0%
Total ARR	127.31	155.93	93.44	-27%
Non-Tariff Income	18.59	5.15	5.15	-72%
Net ARR	108.72	150.77	88.29	-19%
Less SLDC ARR	2.94	2.94	2.94	0%
ARR for Transmission	105.78	147.83	85.35	-19%
Add: Correction of True up of FY 2017-18 vide corrigendum order dated 06.08.2021.	20.08		20.08	
Add: Revenue Gap/(Surplus) for FY 2018-19 True up	-31.39		-31.39	
Add: Revenue Gap/(Surplus) for FY 2019-20 True up	-20.98		-20.98	
ARR for Transmission	73.49	147.83	53.06	-28%
Accrued Terminal Benefits		27.01	27.01	
Total ARR	73.49	174.84	80.07	9%
Less: Revenue from Transmission business	73.49	78.72	78.72	7%
Revenue Gap / (Surplus)	-	96.12	1.35	

3.10.2 The Respondent would like to highlight again the casual approach of the Petitioner in submission of the True-up Petition while claiming Revenue Gap / (surplus) of FY 2022-23. It is submitted that the Hon'ble Commission has allowed the ARR and Revenue recovery from transmission business for FY 2022-23 (in Case No. 28 of 2021 dated 25.03.2022), after adjustment of Revenue Gap / (Surplus) of FY 2017-19 to FY 2019-20. However, the Petitioner has not adjusted the said approved Revenue Gap / (surplus) in

ARR of FY 2022-23 resulting in claim of higher Revenue Gap.

- 3.10.3 Based on the above submission, this Hon'ble Commission is requested to kindly approve the ARR amounting to Rs. 80.07 Crore against the claim of Rs. 174.84 Crore by the Petitioner for FY 2022-23.
- 3.10.4 This Hon'ble Commission is further requested to allow the Revenue Gap of Rs. 1.35 Crore against the Revenue Gap of Rs. 96.12 Crore claimed by the Petitioner while reviewing the ARR along with Tariff for the next period.

**BEFORE THE MEGHALAYA ELECTRICITY REGULATORY COMMISSION,
SHILLONG**

IN THE MATTER OF: -

Meghalaya Power Transmission Corporation Limited

...Petitioner

VERSUS

Byrnihat Industries Association (BIA)

...Objector

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DATE: 09.10.2024
PLACE: NEW DELHI

**BEFORE THE MEGHALAYA ELECTRICITY REGULATORY COMMISSION,
SHILLONG**

IN THE MATTER OF:

Approval of True Up for F. Y. 2022–23 and approval of Muti Year ARR for the control period F. Y. 2024–25 to 2026–27 and determination of Tariff for 2024 – 25 for the Meghalaya Power Transmission Corporation Ltd.

AND

Meghalaya Power Transmission Corporation Limited **...Petitioner**

VERSUS

Byrnihat Industries Association (BIA) **...Objector**

WRITTEN SUBMISSIONS ON BEHALF OF THE OBJECTOR – BYRNIHAT INDUSTRIES ASSOCIATION

1. The present Petition has been filed by the Meghalaya Power Generation Corporation Ltd. (hereinafter referred to as “**MePTCL**”) seeking approval of True Up for F. Y. 2022 – 23, and for determination of tariff for the control period F. Y. 2024 – 2025 to 2026 – 2027 and ARR for F. Y. 2024 – 25. The present Written Submission are being filed on behalf of the Byrnihat Industries Association, Objector in the above petition.
2. MePTCL contrary to the settled position of law, at the true up stage, is seeking this Hon’ble Commission to vary the methodology adopted in the initial tariff determination proceedings. MePTCL has further sought for determination of tariff in complete contradiction with the Meghalaya State Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2014 (hereinafter referred to as “**MYT Regulations, 2014**”).

3. The Hon'ble Supreme Court in the case of BSES Rajdhani Power Limited v. Delhi Electricity Regulatory Commission, (2023) 4 SCC 788 has settled that position that true up exercise cannot amount to reopening of the original tariff proceedings, setting the tariff determination process to a naught at the true-up stage. The relevant portion of the judgment of the Hon'ble Apex Court reads as under:

54. 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.

55. "Truing up" has been held by Aptel in State Load Despatch Centre v. Gujarat Electricity Regulatory Commission [State Load Despatch Centre v. Gujarat Electricity Regulatory Commission, 2015 SCC OnLine APTEL 50, para 17] 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 Aptel in its judgment in North Delhi Power Ltd. v. Delhi Electricity Regulatory Commission [North Delhi Power Ltd. v. Delhi Electricity Regulatory Commission, 2007 SCC OnLine APTEL 16 : 2007 ELR (Aptel) 193] wherein it was held as under : (North Delhi Power case [North Delhi Power Ltd. v. Delhi Electricity Regulatory Commission, 2007 SCC OnLine APTEL 16 : 2007 ELR (Aptel) 193], SCC OnLine APTEL para 60)

"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. ... The truing up exercise is meant (sic) 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."

56. This view has been consistently followed by Aptel in its subsequent judgments and we are in complete agreement with the above view of 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.

Hence, the Hon'ble Commission at this juncture cannot take a relook at the methodology adopted in the tariff determination proceedings and can only fill the gap between the actual expenditure and approved anticipated expenditure.

4. Further, this Hon'ble Commission vide Order dated 16.11.2023 in Case No. 21/2023 has approved the business plan for transmission business for the fourth control period i.e., F. Y. 2024-25 to 2026-27. Any capitalization undertaken by MePTCL, thus has to be in compliance with the business plan order of this Hon'ble Commission. However, it is noticeable that there has been no significant increase in the physical infrastructure on a year-on-year basis.
5. The primary component that requires examination by this Hon'ble Commission is the treatment of grants received by MePTCL, their allocation and apportionment. The above component virtually impacts all of the other components. This is in view of Regulation 27

of the MYT Regulations, 2014. Regulation 27 of the MYT Regulations, 2014, reads as under:

27 Debt-Equity Ratio

27.1 For a project declared under commercial operation on or after 1.4.2015, if the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan;

Provided that where equity actually deployed is less than 30% of the capital cost, the actual equity shall be considered for determination of tariff.

Provided further that equity invested in foreign currency shall be designated in Indian rupees on the date of each investment.

Provided any grant obtained for execution of the project shall not be considered as a part of capital structure for the purpose of debt-equity ratio.

Explanation:- The premium, if any, raised by the generating company or the transmission licensee or the distribution licensee, as the case may be, while issuing share capital and investment of internal resources created out of its free reserve, for the funding of the project, shall be reckoned as paid up capital for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilized for meeting the capital expenditure.

27.2 In case of the generating station and the transmission system declared under commercial operation prior to 1.4.2015, debt-equity ratio allowed by the Commission for determination of tariff for the period ending 31.3.2015 shall be considered.

27.3 Any expenditure incurred or projected to be incurred on or after 1.4.2015 as may be admitted by the Commission as additional capital expenditure for determination of tariff, and renovation and modernization expenditure for life extension shall be serviced in the manner specified in this regulations.

[Emphasis supplied]

The third proviso to Regulation 27 specifically provides for exclusion of grants for the purposes of computation of the debt-equity ratio. This is in view of the fact that the entity not spending/incurred any expenditure out of its pocket, to the extent of such grant, it cannot be entitled to return/interest on the same.

6. While the manner of appropriation of such grants shall be decided by this Hon'ble Commission i.e., whether the same is to be considered in the year the same was approved, funds were received (whether in installments/full), in the year the asset was capitalized/commissioned, this Hon'ble Commission cannot deviate from its own Regulations for treatment of the same.
7. According to improper treatment to grants in violation of the Regulations impacts computation of Return on Equity under Regulation 31, Interest and finance charges on loan capital under Regulation 32 and Depreciation under Regulation 33. The question of according such treatment in violation of the Regulations does not arise as the binding nature of the Regulations has been unequivocally settled by the Hon'ble Supreme Court in the case of PTC India Ltd. v. Central Electricity Regulatory Commission (2010) 4 SCC 603. The Supreme Court has held that once a Regulation has been framed by the regulatory commission, the exercise of power by the commission shall be in conformity with such Regulation. The relevant portion of the decision of the Hon'ble Supreme Court reads as under:

54. As stated above, the 2003 Act has been enacted in furtherance of the policy envisaged under the Electricity Regulatory Commissions Act, 1998 as it mandates establishment of an independent and transparent Regulatory Commission entrusted

with wide-ranging responsibilities and objectives inter alia including protection of the consumers of electricity. Accordingly, the Central Commission is set up under Section 76(1) to exercise the powers conferred on, and in discharge of the functions assigned to, it under the Act. On reading Sections 76(1) and 79(1) one finds that the Central Commission is empowered to take measures/steps in discharge of the functions enumerated in Section 79(1) like to regulate the tariff of generating companies, to regulate the inter-State transmission of electricity, to determine tariff for inter-State transmission of electricity, to issue licences, to adjudicate upon disputes, to levy fees, to specify the Grid Code, to fix the trading margin in inter-State trading of electricity, if considered necessary, etc. These measures, which the Central Commission is empowered to take, have got to be in conformity with the regulations under Section 178, wherever such regulations are applicable. Measures under Section 79(1), therefore, have got to be in conformity with the regulations under Section 178.

55. *To regulate is an exercise which is different from making of the regulations. However, making of a regulation under Section 178 is not a precondition to the Central Commission taking any steps/measures under Section 79(1). As stated, if there is a regulation, then the measure under Section 79(1) has to be in conformity with such regulation under Section 178. This principle flows from various judgments of this Court which we have discussed hereinafter. For example, under Section 79(1)(g) the Central Commission is required to levy fees for the purpose of the 2003 Act. An order imposing regulatory fees could be passed even in the absence of a regulation under Section 178. If the levy is unreasonable, it could be the subject-matter of challenge before the appellate authority under Section 111 as the levy is imposed by an order/decision-making process. Making of a regulation under Section 178 is not a precondition to passing of an order levying a regulatory fee under Section 79(1)(g). However, if there is a regulation under Section 178 in that regard then the order levying fees under Section 79(1)(g) has to be in consonance with such regulation.*

56. *Similarly, while exercising the power to frame the terms and conditions for determination of tariff under Section 178, the Commission has to be guided by the factors specified in Section 61. It is open to the Central Commission to specify terms and conditions*

for determination of tariff even in the absence of the regulations under Section 178. However, if a regulation is made under Section 178, then, in that event, framing of terms and conditions for determination of tariff under Section 61 has to be in consonance with the regulations under Section 178.

Thus, the question of deviation from the Regulations does not arise.

8. Further, difficulty in implementation of the Regulations does not enable the Hon'ble Commission to ignore the same and act in direct contravention. The Hon'ble Appellate Tribunal in the decision dated 03.07.2023 in Appeal No. 49 of 2016 titled Neyveli Lignite Corporation Limited v. Central Electricity Regulatory Commission & Ors. has explicitly set out the above position. The relevant portion of the decision of the Hon'ble Appellate Tribunal reads as under:

128. It is also important to note here that the Appellant has relied upon the settled position of law that once Regulations are notified and exists, such Regulations are the binding principles for all, in the instant case whether the lignite is diverted from the integrated project or procured from other sources, the allowance of incentive shall be as per the Regulations, the CERC is also bound by its own Regulations and in case the Appellant is entitled to incentive in accordance with the applicable Regulations, the CERC cannot pass any order contrary to it.

129. We agree that the law is well settled by the Supreme Court in PTC India Limited V. Central Electricity Regulatory Commission (2010) 4 SCC 603, para 54 to 56, accordingly, the Impugned Order being contrary to the Regulations is liable to be set aside.

130. Once the Regulations are framed, the CERC cannot deviate from the Regulations, so long the Regulations are in force, the same are binding and ought to be followed.

.....

132. In terms of the Statement of Reasons of the 2009 Tariff Regulations, it is clearly stated that the NAPAF for Neyveli's plants were reduced on an express representation from Neyveli that there would be difficulties in relation to availability of lignite.

133. Even, if we agree with the argument of the CERC that there were shortages in the availability of lignite for the projects of NLC and thus would not have achieved higher NAPAF resulting into extra incentive to it, the prevailing Regulations cannot be ignored, in fact, if the CERC had not allowed pooling of price for Mine-II expansion and utilisation of lignite from this mine in other projects, there would not have extra enrichment to NLC at the cost of end consumers.


[Emphasis supplied]

9. Hence, it is evident that, in the event this Hon'ble Commission identifies difficulty in operationalization of the Regulations, an amendment to the same is the only viable possibility for this Hon'ble Commission to introduce a new interpretation/ to accord new treatment to be accorded to a given component.
10. This Hon'ble Commission having interpreted the Regulation in a particular manner since its enactment, the question of changing such interpretation at this juncture, does not arise. While the plain language of the Regulations does not give rise to any ambiguities, literal interpretation is the only rule of interpretation applicable in this regard.
11. MePTCL also cannot take advantage of its own wrong and seek escalation of O & M expenses over and above what was provided for in the Regulations. While the Meghalaya Power Sector Reforms Transfer Scheme, 2010 Para 6 (9) provides that, it's the obligation of the MeECL to ensure contribution to and maintenance of Trust funds,

failure of MeECL to perform its obligation cannot result in additional burden to the consumers.

- 12.** It is thus submitted that any determination to be undertaken by the Hon'ble Commission shall be wholly in line with the MYT Regulations, 2014, and any pleadings of MePTCL to the contrary, is liable to be rejected.

DATE: 09.10.2024
PLACE: NEW DELHI



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