MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

1st Floor (Front Block Left Wing), New Administrative Building Lower
Lachumiere, Shillong – 793 001
East Khasi Hills District, Meghalaya

Case No. 2/2022

In the matter of Petition for Review of True up Order for FY 2018-19.

Filed by

Byrnihat Industries Association (the Petitioner)

And

Meghalaya Power Distribution Corporation limited (MePDCL) (The Respondent)

Coram

Shri P.W. Ingty, IAS (Retd), Chairman
Shri Roland Keishing, Member (Law)

ORDER

(Dated: 22.09.2022)

1. The Commission in exercise of functions as per Regulation 11 of MSERC MYT Regulations has passed the order dated 22.02.2022 for true up of business for FY 2018-19.
2. As per Regulation 22 of MSERC Regulation 2014, Byrnihat Industries Association (BIA) has filed the petition for Review of True up order for FY 2018-19 dated 22.02.2022.
3. Regulation 22.2 of MYT Regulation 2014 specifies that the Commission shall under take review of True up orders subject to the terms & Conditions laid down there in that,
   a) the review petition is filed within sixty days from the date of the order, and / or
   b) there is error apparent on the face of the record.
4. (a) Commission considers that the petition is filed within 60 days of date of true up order passed.

   (b) There is no error apparent on the face of the record.
5. Commission taking into consideration of all the facts and records, audited SOA and prudence check as per the Regulations, passed review order in the following chapters annexed to this order.

Sd/-	Sd/-
Shri. Roland Keishing	**Shri. P.W.Ingty, IAS (Retd.)**
(Member)	**(Chairman)**

Review Petition filed by Byrnihat Industries Association (BIA) on True Up Order for FY 2018-19 dated 22.02.2022 in respect of MePDCL:

Petitioner, Byrnihat Industries Association (BIA) submissions briefly are as given below:

1. Byrnihat Industries Association (hereinafter referred to as "BIA") is a society registered under the Meghalaya Societies Registration Act, 1983 having its registered Office at Byrnihat, Ri-Bhoi District, Meghalaya. The Byrnihat Industries Association was formed by the different industrial units for the welfare, smooth and effective functioning of its units.

2. The Meghalaya Power Distribution Corporation Limited (herein after referred to as "MePDCL" or "Respondent 2" or "Distribution Licensee") is a deemed licensee in terms of Section 14 of the Electricity Act 2003 (herein after referred to as "Act"), engaged in the business of distribution of electricity in the state of Meghalaya.

3. In accordance with the Regulation 11 of the MYT Regulations, MePDCL has filed the Petition for True Up of Distribution Business for FY 2018-19 in Case No. 20 of 2021.

4. In exercise of the powers vested under Section 62 (1) of the Electricity Act 2003 and MYT Regulations 2014 and other enabling provisions, the Hon'ble Commission has issued the Order (hereinafter referred to as "True up Order") dated 22.02.2022 for the approval of the True up of Distribution Business for FY 2018-19.

5. The Hon'ble Commission in the True up Order has approved the T&D losses based on the actuals for FY 2018-19. This is contrary to the T&D loss trajectory approved by the Hon'ble Commission for the FY 2018-19 vide its Order dated 31.03.2018. The T&D losses approved by the Hon'ble Commission for the FY 2018-19 is depicted below:

Table 6 : Computation of Energy Balance for True up of FY 2018-19

Sl. No.	Particulars	Calculation	MU
1	Power purchased from the Eastern Region (ER)	A	0
2	Inter-state transmission loss for ER	B	1.80%
3	Net power purchased from the ER	C=A*(1-B)	0
4	Power purchased from the North -Eastern Region(NER)	D	1,033.77
5	Inter-state transmission loss for NER	E	3.00%
6	Net power available at state bus from externalsources on long term	F=(C+D)*(1-E)	1,002.76
7	Power purchased from generating stations withinthe state	G	971.36
8	Power purchased from other sources	H	420.42
9	Total Energy Available in the State periphery for sale	I=F+G+H	2394.54
11	Net Energy Available for sale by Discom	K	2394.54
12	Power sold to consumers	L	1,105.04
13	Approved Energy Sales within the state (1105.03-0.47(ASEB))	M	1104.56
14	Transmission & Distribution Losses (%)	N	36.20%
15	T&D Losses in terms of MU	O	626.73
16	Energy Requirement for sale by Discom within state	P=M+O	1731.29
17	Surplus Energy	Q=K-P	663.25
18	Grossed Up at 4%	R=Q/0.96	690.88
19	Power sold to outside (includingswapping/UI/bilateral)	S	633.73
20	Balance Energy to be accounted (Sl.no.18-19)	T	57.15

6. By means of the instant analysis, we endeavour to suggest that the T&D losses must be approved based on the trajectory approved by this Hon'ble Commission for the FY 2018-19 vide Order dated 31.03.2018. Such an approach of the Hon'ble Commission has given rise to inflated Energy requirement which in turn has necessitated higher Power purchase requirement and therefore higher Aggregate Revenue Requirement (ARR). Aggrieved by the methodology of the Hon'ble Commission while approving T&D losses, BIA under Regulation 22 of the MYT Regulations 2014 and the Regulation 21 of the Meghalaya State Electricity Regulatory Commission (Conduct of Business) Regulations, 2007 prefers to file Review against the True up Order of the Hon'ble MSERC dated 22.02.2022 in Case No. 20 of 2021.

7. The Government of India, Government of Meghalaya and the Meghalaya Power Distribution Company Ltd. (MePDCL) entered into a Tripartite Memorandum of Understanding (MoU) on 09.03.2017 for Achieving turnaround of Meghalaya Power Distribution Company Ltd. The said MoU enlists the Obligations/ commitments that the Parties have agreed to. Clause 1.3 of the MoU lists the obligations/ commitments that the discom (MePDCL) are to follow.

8. In context of the instant petition, the sub-clause (b) of the Clause 1.3 is pertinent to be reproduced:

   a) As per UDAY scheme, all DISCOMs have to reduce AT&C losses to 15% by FY 2018-19. Considering the Current level of AT&C losses of 36.50%, and late joining of the State and DISCOM under UDAY, MePDCL has proposed to reduce it to 15.00% by FY 2019-20 as per the following trajectory:

2015-16	**2016-17**	**2017-18**	**2018-19**	**2019-20**
36.50	32.51	27.50	21.50	15.00

However, if the target in a particular year is not met, then the DISCOM shall strive to achieve the targets in the subsequent years so as to achieve the desired target of 15.00% AT&C losses by FY 2019-20.

   b) As per the above, the Distribution Company MePDCL has proposed to attain AT&C losses as per the trajectory for the period FY 2015-16 to FY 2019-20. Furthermore, the Annexure B of the MoU also enlists the trajectory of T&D loss along with Collection Efficiency. The relevant extracts of the same are reproduced below:

1. Loss reduction target for Meghalaya Power Distribution Company Limited (%)

Particulars	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
T&D Losses	32.62	28.96	22.76	16.56	12.19
Collection Efficiency	94.25	95.00	93.86	94.08	96.80
AT&C Losses	36.50	32.51	27.50	21.50	15.00

9. It could be inferred from the MOU that MePDCL has committed to attain the T&D losses along with Collection Efficiency in line with the proposed trajectory to reach the stipulated AT&C levels by the end of FY 2019-20 however to our dismay; the performance of the Distribution Licensee has been lacklustre.

10. In line with the commitments made in the MoU, Hon'ble Meghalaya State Electricity Regulatory Commission (MSERC) vide Business Plan order dated 01.11.2017 approved the T&BD losses for the Control period FY 2018-19 to FY 2020-21. The relevant extracts of the said Order of the Hon'ble Commission is as follows:

"As per the MoU for implementation of UDAY scheme the distribution losses have to be reduced to 28.96%, 22.76%, 16.56%, 12.19% for FY 2016-17, FY 2017-18, FY 2018-19, FY 2019-20 respectively. *Considering the difficulties expressed by MePDCL and the distribution loss trajectory considered in the MoU of UDAY scheme the Commission approves distribution loss trajectory for the Control Period FY 2018-19 to FY 2020-21 as shown in table below:*

Table 3.17: Distribution loss approved for Control Period FY 2018-19 to FY 2020-21

Particulars	FY 2018-19	FY 2019-20	FY 2020-21
T&D Loss	16.56	12.19	12.00

11. The Hon'ble Commission's approval of T&D losses at actuals i.e. 36.20% for the True up of FY 2018-19 defy the T&D Loss trajectory approved by the Hon'ble Commission in the past. This aspect is more so prominent since this is resulting into significantly higher Power purchase expenses, a significant part of which is sold outside the state at throw away prices.

12. As per the information available in the Public domain, the Petitioner vide the True up Petition has the following provided the following reasoning in support of such high T&D losses:

"MePDCL submits before the Hon'ble Commission to kindly allow the actual T&D losses of 36.20% since the losses have increased on account of increased *supply to rural areas and small LT domestic and Kutir Jyoti consumers and increase of LT:HT ratio. The HT sales are reducing on account of open access and the LT sales are increasing on account of*

*rural electrification schemes and increased supply. The Utility is striving hard to improve the distribution infrastructure to deliver 24*7 reliable power supply to all its consumers and at the same time down its losses through efficiency measures, which will lead to financial improvement of the licensee."*

It is mentioned that the reasoning put forth by the Petitioner is incomplete as it does not factor in for the Capital Expenditure it has incurred to achieve the rural electrification. Year on year, MePDCL has been in receipt of Grants from the State/ Central Government to lower down the T&D losses (read AT&C losses) but the impact on account of the same is miniscule. The table below depicts year on year LT consumption, HT consumption, T&D losses, AT&C losses, Capital Expenditure booked by MePDCL:

Particulars	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	Remarks
LT consumption (Mus)	536.94	534.48	612.7	625.92	As per Audited Accounts
Incremental LT consumption compared to previous year		-0.46%	14.63%	2.16%	
HT consumption (Mus)	479.24	570.53	646.78	740.74	
Incremental HT consumption compared to previous year		19.05%	13.36%	14.53%	
Capital Expenditure (Note 3)	109.78	107.15	212.60	560.81	
Actual T&D losses	34.93%	36.20%	29.88%	#29.04%	As per True up Order of MSERC
AT&C losses (as per True up Orders of MSERC)	41.92%	36.20%	32.07%	NA	

It can be observed that the increase in HT consumption is more than the increase in LT consumption which implies year on year, HT consumption is increasing at a rapid pace compared to LT. Despite the Covid induced lockdowns in the state, the HT consumption has formed the bulk of the consumption and such trend establishes the fact that the T&D loss levels depicted by the Distribution Licensee (MePDCL) has gone unnoticed. It is surprising to note that from FY 2017-18 to FY 2020-21, despite a significant increase in Capital Expenditure, the T&D losses could not be contained by the Distribution Licensee. MePDCL's submission in the respective True up Petition that higher T&D losses are on account of rural electrification is not in consonance with the data illustrated in the table above (especially LT and HT consumption). It may also be relevant to point out that the data pertaining to connected load and no. of consumers is not presented in the respective True up Petition. Furthermore, the Hon'ble MSERC has time and again reported non- compliance of the directive issued to the MePDCL in matters pertaining to Energy Audit (ref Para 8.1 (2) of the MSERC Order dated 25.03.2021). Such a non-sensible approach of the Distribution Licensee towards Loss reduction is wanting and the consequences of the same must not be passed onto the consumers of the state.

13. It is further mentioned that the MSERC MYT Tariff Regulations 2014 ascribes “Variations in technical and commercial losses of Distribution Licensee” as controllable factor. The relevant extracts of the MYT Regulations 2014 are reproduced below:

“12.2 Some illustrative variations or expected variations in the performance of the applicant, which may be attributed by the Commission to controllable factors include, but are not limited to, the following:

a. Variations in capitalisation on account of time and/or cost overruns/ inefficiencies in the implementation of a capital expenditure project not attributable to an approved change in scope of such project, change in statutory levies or force majeure events;
b. Variation in Interest and Finance Charges, Return on Equity, and Depreciation on account of variation in capitalisation, as specified in clause (a) above;
c. **Variations in technical and commercial losses of Distribution Licensee;**
d. Variations in performance parameters;
e. Variations in working capital requirements;
f. Failure to meet the standards specified in the Meghalaya State Electricity Regulatory Commission (Standard of Performance) Regulations, 2012, except where exempted in accordance with those Regulations;
g. Variation in operation & maintenance expenses;
h. Variation in Wires Availability.”

In view of the above, any variation in T&D losses compared to the normative trajectory defined by the Hon’ble Commission is attributable to the inefficiency of the MePDCL. The loss levels in FY 2020-21 also depicts the continued poor state of affairs and the Distribution Licensee would be keen to pass its inefficiency over the state consumers. The rationale behind the recurring poor losses are never exhibited by the Distribution Licensee (MePDCL) therefore in light of the Section 61(d) of the Act, the burden of inefficiency at the MePDCL's end should not be passed onto the consumers. The relevant extracts of the Act are reproduced below:

"Section 61. (Tariff regulations):

The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:-

(a) the principles and methodologies specified by the Central Commission for determination of the tariff applicable to generating companies and transmission licensees;

(b) the generation, transmission, distribution and supply of electricity are conducted on commercial principles;

(c) the factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments;

(d) Safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner;

14. As per the data made available in the true up petition, the impact arising out of the excess Power purchase costs on account of higher (than approved) T&D losses for the FY 2018-19 is Rs. 135.93 Cr. The computation of the same is depicted below:

Particulars	**FY 2018-19**
	Allowable
Power sold to consumers within the state (Mus)	1,105.04
T&D loss (%)	16.56%
Transmission and Distribution losses (Mus)	219.31
Energy required at state periphery (Mus)	1,324.35
Power available	
Power purchased from the North -Eastern Region (Mus)	1,033.77
Inter-state transmission loss for NER (Mus)	3%
Net power available at state bus from NE region (Mus)	1,002.76
Power purchased from generating stations within the state (Mus)	971.36
Power purchased from other sources (Mus)	420.42
Power sold to other states (including swapping/UI/bilateral) (Mus)	662.39
Net power available at state bus (Mus)	1,732.15
Surplus Power at state periphery (Mus)	**407.79**
Average Power Purchase cost (Rs./ unit)	3.33
Surplus Power Purchase cost to be disallowed from the ARR (Rs. Cr.)	**135.93**

It is humbly submitted that the consumers of the state are nowhere responsible for the poor T&D loss of the MePDCL and thereby loading of any financial impact arising out of such inaction at the MePDCL's end should not be loaded onto the Petitioner. The impact of poor losses amounts to approx. 15% of the ARR which suggests that the 15% of the ARR translates to the absurd hike claimed by MePDCL.

15. To strengthen the above argument with respect to approval of T&D/ Distribution losses, BIA would like to reproduce the ruling of other State Electricity Regulatory Commissions (SERCs) wherein the Appropriate SERCs have approved the T&D loss/ Distribution loss based on the approved Loss trajectory for computation of the Power purchase costs. In this regard, the relevant extracts of the True up Orders of other State discoms are illustrated below:

a) **Punjab**: Distribution loss approved at 12.94% as per approved levels against actual Distribution loss of 13.43% (*ref* Order dated 31.03.2022 in Petition No. 68 of 2022).

Table 21: Energy Requirement of PSPCL determined by the Commission for FY 2020-21

MkWh

Sr. No.	Particulars		Approved in Review by the Commission in TO for FY 2021-22	Submitted by PSPCL vide Reply dated 24.12.2021	Determined by the Commission with target T&D losses	Actual losses computed by the Commission
I	II		III	IV	V	VI
1	Energy Sales within the State		46374	49428	49195.15	49195.15
2	Target Distribution Loss	%	12.94%	12.99%	12.94%	13.43%
		MkWh	6893	7381	7312.03	7629.74
3	**Input Energy Required**		**53267**	**56808**	**56507.18**	**56824.89**
4	Gen. available at 66/11 KV		2077		1589.17	1589.17*
5	Input Energy Required (excluding Gen. available at 66 KV and below)		51190		54918.01	55235.71
6	Target Transmission Loss	%	2.48%	-	-	-
		MkWh	1302.00	1329.22	1329.22	1329.22
7	Total Energy Input Required (excluding NRSE Gen available at 66 KV and below)		52492.00		56247.23	56564.94
8	**Total Energy Input Required**		**54569.00**	**58137.29**	**57836.40**	**58154.11**
9	Sales to Common pool consumers		301.00	300.63	300.63	300.63
10	Outside State Sales		38.00	69.86	69.86	69.86
11	*Energy available from M/s Winsome and M/s Nahar industries (0.33 MkWh) and Net-metering (12.42 MkWh), the actual energy requirement*			12.75		
12	**Total Requirement**		**54908.00**	**58520.53**	**58206.90**	**58524.61****

"Accordingly, the Commission approves the total energy requirement of PSPCL at State periphery as 58206.90 MkWh for True-up of FY 2020-21"

b) **Rajasthan** – ref Order dated 07.09.2021 in Petition No.: 1844/2020, 1862/ 2020 and 1847/2020

JdVVNL: Distribution loss approved at 15.00% as per approved levels against actual Distribution loss of 19.38%.

Table 2: Gross Energy Requirement of JdVVNL for 2019-20 (MUs)

Sr. No.	Particulars	Approved as per Order Dated 06.02.2020	Actual/Audited	Restated Level	Normative Calculation
1	Gross Energy Requirement	25077	28026.60	28026.60	26131.08
2	Less:- Sale Through Exchange	0	559.33	559.33	559.33
3	Net Energy Requirement	25077	27467.27	27467.27	25571.76
4	Inter State Transmission Loss (MU)	330	593.38	593.38	250.77
5	Energy Availability at RVPN (MU)	24747	26873.89	26873.89	25320.98
6	Intra State Transmission Loss(%)*	3.35%	3.33%	3.33%	3.33%
7	Intra State Transmission Loss(MU)	829	894.90	894.90	843.19
8	Energy Requirement at Distribution Periphery (MU)	23918	25978.99	25978.99	24477.79
9	Distribution Loss (%)	15.00%	19.38%	19.91%	15.00%
10	Distribution Loss (MUs)	3588	5034.80	5172.87	3671.67
11	Energy Sales (MUs)	20330	20944.19	20806.12	20806.12

"3.13 It is observed that the Discom has purchased 1895.51 MUs in excess due to increase in distribution loss over the target given by the Commission, consideration of sale of power to DF and high transmission losses."

JVVNL: Distribution loss approved at 15.00% as per approved levels against actual Distribution loss of 17.21%.

Table 2: Gross Energy Requirement of JVVNL for FY 2019-20 (MUs)

Sr. No.	Particulars	Approved as per Order Dated 06.02.2020	Actual/Audited	Restated Level	Normative Calculation
1	Gross Energy Requirement	30892	32528.76	32528.76	31006.22
2	Less:- Sale Through Exchange	0	691.14	691.14	691.14
3	Net Energy Requirement	30892	31837.62	31837.62	30315.08
4	Inter State Transmission Loss (MU)	407	687.79	687.79	304.53
5	Energy Availability at RVPN (MU)	30485	31149.82	31149.82	30010.55
6	Intra State Transmission Loss(%)*	3.35%	3.33%	3.33%	3.33%
7	Intra State Transmission Loss(MU)	1021	1037.29	1037.29	999.35
8	Energy Requirement at Distribution Periphery (MU)	29464	30112.53	30112.53	29011.20
9	Distribution Loss (%)	15%	17.21%	18.11%	15.00%
10	Distribution Loss (MUs)	4420	5183.55	5453.02	4351.68
11	Energy Sales (MUs)	25044	24928.99	24659.52	24659.52

"3.90 It is observed that the Discom has purchased 1522.54 MUs in excess due to increase in distribution loss over the target given by the Commission, consideration of sale of power to DF and high transmission losses."

c) **Uttarakhand** – Distribution loss approved at 14.00% as per approved levels against actual Distribution loss of 14.64% (ref Order dated 31.03.2022 in Petition No. 47/ 2021 and 48/2021).

"**4.1.2 Distribution Losses**

The Petitioner in its Petition has submitted its distribution losses for FY 2020-21 as 13.96%. **The Commission for FY 2020-21 had approved the distribution losses of 14.00% based on the loss reduction trajectory approved in the MYT Order for the Control Period from FY 2019-20 to FY 2021-22.** However, as per the actual data submitted by the Petitioner and the re-casted sales approved by the Commission, **the actual distribution losses for FY 2020-21 works out to 14.64%.**

UPCL submitted that it has been making significant efforts to reduce distribution losses and has shown substantial improvement in reduction of distribution losses from FY 2019-20 which has been difficult considering higher growth in sales of LT consumer segment on account of lockdown imposed due to COVID-19 pandemic.

The Commission, in accordance with the approach adopted in its previous Orders, has allowed the actual quantum of power purchase made by the Petitioner. Considering the actual energy input of 13287.59 MU at distribution periphery (T&D interface) for FY 2020-21 and applying the approved loss level of 14.00% for the year, the Commission re-estimated the sales of 11427.33 MU for FY 2020-21. As against this sale of 11427.33 MU, the actual re-casted sales approved by the Commission for FY 2020-21 is 11342.74 MU. Therefore, there is a loss of sales to the tune of 84.59 MU on account of commercial inefficiencies of the Petitioner resulting from its failure to achieve distribution losses target approved by the Commission."

d) **Assam** – Distribution loss approved at 15.50% as per approved levels against actual Distribution loss of 18.55% (ref Order dated 21.03.2022 in Case No.: 12/ 2021).

Table 9: Energy Requirement approved by the Commission after True-Up for FY 2020-21

Sr. No.	Particulars	Tariff Order	APDCL Petition	Approved after True-Up
1	Energy sales	7,815	7,458	7,458
2	Distribution Loss (%)	15.50%	18.55%	15.50%
3	Energy Requirement at T<>D periphery	9,249	9,156	8,826
4	Intra State (AEGCL) Transmission Loss	3.34%	3.34%	3.34%
5	Energy input to Transmission System	9,568	9,473	9,131
6	Inter-State (PGCIL) Pooled Loss (%)	1.51%	1.84%	1.90%
7	Inter-State (PGCIL) Pooled Loss (MU)	147	203	203
7	Seasonal Export	540	1,328	1,328
8	**Total Energy Requirement**	**10,255**	**11,004**	**10,662**

Therefore, the Commission approves Energy Requirement of 10,662 MU for sale of 7,458 MU to retail consumers in the truing up for FY 2020-21."

16. The Hon'ble Commission is requested to kindly consider admit this instant Petition and approve the T&D losses based on the T&D loss trajectory approved by the Hon'ble Commission in the Tariff Order dated 31.03.2018 which is in line with the UDAY MoU, for the determination of Aggregate Revenue Requirement (ARR) and thereby reassess the Surplus/ Gap for the True up of FY 2018-19 respectively.

Response of MePDCL on the Review Petition filed by BIA on True Up Order for FY 2018-19 dated 22.02.2022:

Respondent, MePDCL submissions briefly are as given below:

(1-4) That as already stated in the paragraphs above, the Review Petition has not been filed in accordance with conditions and procedure laid down in the MSERC (MYT) Regulations, 2014 and the MSERC (Conduct of Business) Regulations, 2007 and the Review Petitioner has no locus to file the Review Petition under Reply and as such it deserves to be dismissed at the threshold. The contents of paragraph 2 are specifically denied. That as already stated in the paragraphs above, the Review Petition has not been filed person(s) aggrieved and the Review Petitioner has no locus to file the Review Petition under Reply and as such it deserves to be dismissed at the threshold. A review Petition can only be filed by Aggrieved person(s). Even assuming, without admitting that it can be filed in representative capacity, there is nothing on record placed by the Review Petitioner-BIA that it has the authority to represent all the Ferro Alloys industries of the State of Meghalaya which are consumers of MePDCL. It is settled law that Power to review is not an inherent power of a statutory authority and it can be exercised by a statutory authority only when it is so provided in the concerned statute and within the four corners of the specific provision conferring power to review. The Hon'ble Supreme Court, in the case of Naresh Kumar v. Government (NCT of Delhi) reported in (2019) 9 SCC 416 has held as under:

"13. It is settled law that the power of review can beexercised only when the statute provides for the same. In the absence of any such provision in the statute concerned, such power of review cannot be exercised by the authority concerned. This Court in Kalabharati Advertising v. Hemant Vimalnath Narichania [Kalabharati Advertising v. Hemant Vimalnath Narichania, (2010) 9 SCC 437 : (2010) 3 SCC (Civ) 808], has held as under: (SCC pp. 445-46, paras 12-14)

"… 12. It is settled legal proposition that unless the statute/rules so permit, the review application is not maintainable in case of judicial/quasi-judicial orders. In the absence of any provision in the Act granting an express power of review, it is manifest that a review could not be made and the order in review, if passed, is ultra vires, illegal and without jurisdiction. (Vide Patel Chunibhai

Dajibha v. Narayanrao Khanderao Jambekar [Patel Chunibhai Dajibha v. Narayanrao Khanderao Jambekar, AIR 1965 SC 1457] and Harbhajan Singh v. Karam Singh [Harbhajan Singh v. Karam Singh, AIR 1966 SC 641] .)

13. In Patel Narshi Thakershi v. Pradyuman Singhji Arjunsinghji [Patel Narshi Thakershi v. Pradyuman Singhji Arjunsinghji, (1971) 3 SCC 844] , Chandra Bhan Singh v. Latafat Ullah Khan [Chandra Bhan Singh v. Latafat Ullah Khan, (1979) 1 SCC 321] , Kuntesh Gupta v. Hindu Kanya Mahavidyalaya [Kuntesh Gupta v. Hindu Kanya Mahavidyalaya, (1987) 4 SCC 525 : 1987 SCC (L&S) 491] , State of Orissa v. Commr. of Land Records & Settlement [State of Orissa v. Commr. of Land Records & Settlement, (1998) 7 SCC 162] and Sunita Jain v. Pawan Kumar Jain [Sunita Jain v. Pawan Kumar Jain, (2008) 2 SCC 705 : (2008) 1 SCC (Cri) 537] this Court held that the power to review is not an inherent power. It must be conferred by law either expressly/specifically or by necessary implication and in the absence of any provision in the Act/Rules, review of an earlier order is impermissible as review is a creation of statute. Jurisdiction of review can be derived only from the statute and thus, any order of review in the absence of any statutory provision for the same is a nullity, being without jurisdiction.

14. Therefore, in view of the above, the law on the point can be summarized to the effect that in the absence of any statutory provision providing for review, entertaining an application for review or under the garb of clarification/modification/correction is not permissible."

Thus, the reference to general provisions of the Code of Civil Procedure, 1908 by the Review Petitioner would not be applicable to the present case and they are applicable only when the provision of review related to the particular authority in the concerned statute unequivocally adopts the provisions of CPC for the purpose of Review. In the present case, both Clause 22 of MSERC(MYT) Regulations, 2014 and clause 21 of the MSERC (Conduct of Business) Regulations, 2007 put a limitation that Review can be preferred only by persons aggrieved. That in view of the submission made above, it is reiterated that the CPC is not applicable to the present case and the Review Petitioner is not person aggrieved by the decision and hence has no locus to file the instant review petition. Further, mere participation in public hearing held by this Hon'ble Commission will not make a person an 'aggrieved person' entitling it to prefer Review Petition against an order passed by this Hon'ble Commission. Without prejudice to this preliminary objection, it is reiterated that even on merits of the case, this Hon'ble Commission has adopted the correct approach and methodology to calculate CSS for all HT and EHT consumers, including the Ferro Alloys industries and the same is in consonance with the principles laid down in the National Tariff Policy.

(5) That the corresponding paragraph is matter of record and as such need no specific reply. However, anything stated therein contrary to record is denied as incorrect.

(6-7) That the corresponding paragraph is matter of record and as such need no specific reply. However, anything stated therein contrary to record is denied as incorrect.

(8-10) The contents of the corresponding paragraph is the biggest admission of the fact that the present petition is not a review petition, but rather an appeal in disguise. It is an attempt to urge the Commission to substitute its view. This is not the remit of a review petition and the attempt being illegal must be quashed with an iron hand. Even on merits, what has been set out by the petitioner is misconceived and malafide. In reply to the contents of the corresponding paragraph it is submitted that the Hon'ble Commission has approved the trajectory of loss in MYT order dated 31.03.2018 in Case No.: 9/2017 based on commitment given by MePDCL for the implementation of UDAY Scheme, and it states:

Commission considering the mandated performance by the MePDCL as per the MOU entered with the Ministry of Power, Government of India, Government of Meghalaya, the T & D loss trajectory for the 2nd MYT Control Period FY 2018-19, FY 2019-20, FY 2020-21 is approved as stated below.

Table 5.5: T&D loss Trajectory for Control periodApproved

Particulars	FY 18-19	FY 19-20	FY 20-21
T & D Loss (%)	16.56	12.19	12.00

The Hon'ble Commission while considering the MOU, has considered only the commitment made by MePDCL but it has ignored the other aspect which states that the corresponding Tariff hike should be as under:

FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
8.68%	8.68%	8.68%	8.68%

It is reiterated that the adoption of T&D loss as per the UDAY scheme cannot be criteria as there is time difference between the completion of the schemes and the intended period of completion. Also, there is a difference between the quantum of work supposed to be completed to achieve such targets and the actual sanctioned amount/ quantum of work. It is further submitted that the Hon'ble Commission has approved 34.93% as the T&D loss for FY 2017-18 vide its true up Order dated 13.10.2020 in Case No 13/2020. It is therefore impractical to reduce the T&D loss from 34.93% to 16.56% in one year. It is also submitted that Regulation 82 and 83 of MSERC MULTI YEAR TARIFF REGULATIONS 2014 have prescribed the mandated loss reduction for the coming years.

It may be noted that Regulation 83 has mentioned specifically that the quantum of AT&C loss to be reduced from previous year stating that if the AT&C loss is more than 30%, the loss reduction should be at least 3% and if the loss level is less than 30% the minimum reduction is 1.5%. Therefore, assuming that collection efficiency to be 100%, the loss reduction in T&D Loss should be 3% if more than 30% and 1.5% if less than 30%. In view of the fact that the T&D Loss approved for FY 2017- 18 vide its true up Order dated 13.10.2020 in Case No 13/2020 is 34.93%, therefore the Loss reduction can at best be 3% i.e., T&D loss can be at best 31.93% assuming Collection efficiency to be 100%. Therefore, it is impractical to reduce the loss from 34.93% to 16.56% in one year.

The Ministry of Power through REC has recognized that the T&D loss of Meghalaya is presently very high. This can be observed from the Section 4 of the letter Dated REC/RDSS/Meghalaya/21-22/146 dated 23.03.2-022 which conveys Approval of Action plan and DPR of Meghalaya Power Distribution Company Limited (MePDCL) for the State of Meghalaya under Revamped Distribution Sector Scheme (RDSS) (enclosed as Annexure). The section 4 of the letter has specified the base year data for AT&C loss for FY 20 and FY 21 as 34.32% and 32.47% respectively. It can be inferred that the targets set as per UDAY scheme have not yet been met and therefore more investment is required to bring to pan India level. Therefore, to place the trajectory of losses based on the Schemes shall not be a reliable one. And therefore, only the actual data of the previous year and the current year are the reliable indicators to fix for the trajectory of Losses. It may be noted that in the year 2018-19, there was no work completed for voltage improvement other than extension of 11kv lines and LT lines including connections to the consumers under Saubhagya. Therefore, the contentions put forth by BIA are liable to be rejected.

(11) The contents of the corresponding paragraph are denied as incorrect.

The inference sought to be drawn by the petitioner is ex-facie misconceived and contrary to the record.

(12-14) That as already stated in the paragraphs above, this Hon'ble Commission has used the correct approach, formula in determining the tariff. Anything in the corresponding paragraphs stated therein contrary to record and incorrect interpretation placed by the Review Petitioner is denied as incorrect.

(15) The contents of the corresponding paragraph are denied. The increase in HT consumption is not a reality. The reason being that more consumers have been given supply through Saubhagya scheme. But the billing for most of these consumers could not be done in time due to the primary objective to meet the target of providing 100% household connections. It is one of the main reasons why T&D loss could not be reduced substantially.

(16-17) That the contents of the corresponding paragraph are denied as incorrect. It is submitted that during FY 2018-19, MePDCL was implementing the SAUBHAGYA scheme. As a result of this, many consumers have been given supply. But the billing for most of these consumers could not be done in time due to the primary objective to meet the target of providing 100% household connections. It is one of the main reasons why T&D loss could not be reduced substantially. Be that as it may, the said aspect of the matter does not in any way render the impugned orders liable for being reviewed.

(18) The contents of the corresponding paragraph are denied as incorrect. It is stated that MSERC is also implementing this by penalizing MePDCL as per Regulation 83 of MSERC MULTI YEAR TARIFF REGULATIONS 2014. Regulation 83 of MSERC MULTI YEAR TARIFF REGULATIONS 2014 states:

83-AT&C Losses

"The licensee shall provide complete information of the total AT & C Losses during the previous year and that projected for the year for which the application is being made, including the basis on which such losses have been worked out.

Provided that it shall be obligatory on the licensee whose AT&C losses during the previous year are in excess of 30 percent, to project reduction of such losses by a minimum of 3 percent during the year for which a Tariff Application is made. Any shortfall in the projected level of AT&C losses for such year, in this regard, may be penalized by an amount equivalent to the cost of the quantum of energy to be lost due to inability of the licensee to plan and achieve reduction of AT&C losses by a minimum of 3 percent from the previous year's level as may be allowed. Such amount shall be calculated at the average-over- all-unit-cost of sale of power, as approved by the Commission for such year.

Provided further that failure of a licensee to reduce the AT&C losses during the previous year by 3 percent would be penalized on the same basis as stated against clause (a) above. Provided also that in the case of a licensee whose AT&C losses during the previous year were less than 30 percent, it would be obligatory for such licensee to reduce such AT&C losses by a minimum of

1.5 percent only during the year for which a Tariff Application is made. Failure to achieve this level of reduction may be penalized in the same manner as set out in clause (a) above. Further, provided that the overall penalty, of any, may be limited by relevant Central Guidelines, as may be notified from time to time."

It may be noted here that even MSERC vide Order dated 14.08.2017 has rejected MePDCL prayer for "Amendment of Regulation 83: Penalty for non-achievement of AT&C trajectories: to do away with this penalty". Therefore, the contentions of the petitioner in the corresponding paragraph are of no assistance.

(19-20) The contents of the corresponding paragraph are denied as incorrect. BIA has cited example of different utilities. These cannot be the yardstick because as already stated in the paragraphs above, considering the special factors and circumstances of the area of supply of the Distribution Licensee, this Hon'ble Commission is not bound by the orders passed by the other State Commissions. Even otherwise, it is wrong to infer that the T&D loss trajectory of these utilities is as per the MOU of UDAY scheme as nowhere the word MOU or UDAY is mentioned in the so called Tariff Orders. That as already stated in the paragraphs above, this Hon'ble Commission has used the correct approach, formula and data for calculation of the Tariff and the same is not liable to be subjected to further review.

(21) That in view of the submission of facts and law made above in the instant reply of the MePDCL to the Review Petition, the prayers made by the Review Petitioner in the corresponding paragraph are not maintainable and liable to be rejected at the threshold.

Commission's Analysis

The Commission had approved T&D and AT&C losses trajectory in the ARR for MYT control period FY 2018-19 to FY 2020-21 considering the projected capital investment plan for improvement of the overloaded Distribution network which was deteriorated over a period of time, Evacuation of power from MePTCL Grid substations, supply of 24/7 power to all LT and Kutir Jyoti Consumers and increased quality and reliable power etc., as noted below.

Particulars	FY 2018-19	FY 2019-20	FY 2020-21
T&D losses	16.56 %	12.19 %	12.00 %
AT&C losses	21.50%	15.00%	-

Commission considered that the T&D & AT&C loss trajectory approved was based on the commitment of capital investment plan for improvement of the overloaded Distribution network which was deteriorated over a period of time, Evacuation of power from MePTCL Grid substations, supply of 24/7 power to all LT and Kutir Jyoti Consumers and increased quality and reliable power etc., with an estimated projections to achieve the performance during the control period FY 2018-19 to FY 2020-21.

Commission considers that the T&D and AT&C loss approved Trajectory cannot be firmed up as actual for True up, without executing the projected improvement of network during the period under correspondence.

The Respondent MePDCL has submitted in their petition for True up of FY 2018-19 - to allow the actual T&D losses of 36.20% since the losses have increased on account of increased supply to rural areas and small LT domestic and Kutir jyoti consumers and increase of LT:HT ratio. The HT sales are reducing on account of open access and the LT sales are increasing on account of rural electrification schemes and increased supply. The Utility is striving hard to improve the distribution infrastructure to deliver 24*7 reliable power supply to all its consumers and at the same time down its losses through efficiency measures, which will lead to financial improvement of the Licensee.

National Tariff Policy 2016 provides for – "*All power purchase costs need to be considered legitimate unless it is established that the merit order principle has been violated or power has been purchased at unreasonable rates. The reduction of Aggregate Technical & Commercial (AT&C) losses needs to be brought about but not by denying revenues required for power purchase for 24 hours supply and necessary and reasonable O&M and investment for system up gradation.*

Consumers, particularly those who are ready to pay a tariff which reflects efficient costs have the right to get uninterrupted 24 hours supply of quality power. Actual level of retail sales should be grossed up by normative level of T&D losses as indicated in MYT trajectory for allowing power purchase cost subject to justifiable power purchase mix variation (for example, more energy may be purchased from thermal generation in the event of poor rainfall) and fuel surcharge adjustment as per regulations of the SERC."

Commission had approved the T&D losses of MePDCL for FY 2018-19 at 36.20% on the submission of the licensee that T&D losses have increased on account of increased supply to rural areas and small LT domestic and Kutir Jyoti consumers and increase of LT:HT ratio. The HT sales are reducing on account of open access and the LT sales are increasing on account of rural electrification schemes and increased supply. The Utility is striving hard to improve the distribution infrastructure to deliver 24*7 reliable power supply to all its consumers and at the same time down its losses through efficiency measures, which will lead to financial improvement of the licensee. Further, the power purchase requirement to meet the demand in the state depends on the actual T&D losses.

AT&C Loss Penalty

Regulation 83.1 provides :- "*failure of a licensee to reduce the AT&C losses during the year by 3 percent would be penalized on shortfall in the projected level of AT&C losses by an amount equivalent to the cost of quantum of energy to be lost due to inability of the licensee to plan and achieve reduction of AT&C losses by a minimum of 3 percent*"

Commission had imposed penalty of Rs.15.12 Crore for non achievement of the AT&C losses compared to previous year performance by the Respondent MePDCL as per the Regulation 83.1.

Format-D2 (A)

Information regarding Distribution Loss and AT & C Loss of Licensee FY 2018-19

Sl. No	Particulars	Calculation	Unit	Previous Years FY 17-18 (Actuals)	Current Year (R.E)
1	Generation (own as well as any other connected generation, net after deducting auxiliary consumption) within area of supply of DISCOM	A	MU	2488.89	2394.54
2	Input energy (metered import) received at interface points of DISCOM network	B	MU	2488.89	2394.54
3	Input Energy (metered Export) by the DISCOM at interface point of DISCOM network including balance surplus energy	C	MU	927.23	633.73
4	Total energy available for sale within the licensed area to the consumers of the DISCOM	D=B-C	MU	1561.66	1760.81
5	Energy billed to metered consumers within the licensed area of the DISCOM	E	MU	1016.17	1104.56
6	Energy billed to unmetered consumers within the licenses area of the DISCOM	F	MU	-	-
7	Total Energy billed	G=E+F	MU	1016.17	1104.56
8	Amount billed to consumer within the licensed area of DISCOM	H	Rs.Cr	631.44	666.57
9	Amount realized by the DISCOM out of the amount Billed at H#	I	Rs.Cr	601.67	685.74
10	Collection efficiency (%) (=Revenue realized Amount billed)	J=(I/H)X100	%	95.28%	100.00%
11	Energy realized by the DISCOM	K=JXG	MU	968.21	1104.56
12	Distribution Loss (%)	L={(D –G)/D}x100	%	34.93%	37.27%
13	AT&Loss (%)	M={(D-K)/D}x100	%	38.00%	37.27%

Approved AT&C Loss for FY 2018-19

Particulars	Amount
Opening balance of receivables as projected as on 31.03.2018 (Rs.Cr)	393.81
Revenue from sale of power within the state in FY 2018-19 (Rs.Cr)	666.57
Total (Rs.Cr)	**1060.38**
Less: Closing balance of receivables as at Note 7.(a).3 of SOA (Rs.Cr)	374.64
Revenue realized in FY 2018-19 from sale of power within the state (Rs.Cr)	685.74
Collection Efficiency (%)	100.00%
T&D losses (%)	37.27%
AT&C Losses (%)	37.27%

Commission considers the AT&C loss penalty as detailed in the table below

Calculation of AT&C Loss Penalty for FY 2018-19

1	Actual AT&C loss for FY 2017-18	38.00%
2	Target level for FY 2018-19	35.00%
3	Actual AT&C loss for FY 2018-19 as per the Format D2(A)	37.27%
4	Short fall over the Targeted Level	2.27%
5	Total AT&C loss for FY 2018-19 MU (1104.56*2.27%)	25.07 MU
6	Average Unit cost of sale of power as per Reg.83.1	Rs.6.03/Kwh
7	Penalty to be levied on the short fall of AT&C loss energy	Rs.15.12 Cr

Commission considers AT&C loss penalty at Rs.15.12 Crore to be appropriated from the Net ARR for FY 2018-19.

<u>Commission heard the Counsel for the petitioner Byrnihat Industries Association (BIA) and Counsel for Respondent MePDCL on 07.07.2022 and 23.08.2022.</u>

Counsel for Petitioner BIA argued that :

The Petitioner BIA pleaded that there has been an error in the True up Order passed for FY 2018-19 allowing T&D losses of 36.20% as against approved Trajectory of 16.56% in the Tariff Order dated 31.03.2018.

Petitioner has claimed that Commission has approved T&D losses at 36.20 % for True up of the business for FY 2018-19 dated 22.02.2022 which is erroneous.

The petitioner pleaded that the erroneous approval of T&D losses at 36.20% resulted in higher procurement of power by MePDCL which ultimately burdened the consumers of Meghalaya State and the members of BIA for the additional power purchase cost caused due to poor performance of MePDCL in achieving approved T&D loss Trajectory of 16.56 %.

The petitioner pleaded for Review of the True up orders dated 22.02.2022 as per the Regulation 22 of MSERC MYT Regulations 2014 and Regulation 21 of MSERC (Conduct of Business) Regulations 2007 and sought for withdrawal of power purchase cost attributable to higher T&D losses to arrive at a reasonable cost while revising the T&D loss levels to 16.56 % as approved Trajectory in the Tariff Order dated 31.03.2018.

The petitioner BIA submitted reference of other state SERC's like Punjab, Rajasthan (JdVVNL,JVVNL), Uttarakhand and Assam wherein the T&D losses were approved based on approved loss Trajectory for computation of power purchase cost.

The petitioner BIA in their Oral Submission dated 29.08.2022 have pleaded that T&D losses to a tune of 36.20% and 29.88 % for FY 2018-19 and FY 2019-20 respectively should not be allowed since there is no reason for such high losses which will over burden the genuine Revenue paying consumers of the state of Meghalaya, as there are 0% Transmission losses recorded in Pioneer Carbide at 132 kv level and 0.5% loss at 33 kv level during 6 to 10 years respectively.

Further submitted that the Review petition filed by BIA is due to the reason that the True up figures which is a part of Tariff petition for the year 2022-23 which were finalized by Hon'ble Commission on 21.02.2022 and 22.02.2022 before the public hearing was held in March 2022 and were objected by BIA and requested MSERC to take Suo-moto review of the True up figures by the Hon'ble Commission.

Counsel for Respondent MePDCL argued that :

The Respondent MePDCL pleaded firstly that the prayer of petitioner BIA is vague, inchoate and without any particulars, not seeking in terms of Regulations 21 of MSERC (Conduct of Business Regulations) 2007. Even otherwise, no ground for review has been made out. The prayer is broad, general and open-ended with a deliberate and malafide intention to mislead this Commission to exercise jurisdiction without making out any of the grounds for review of the orders and pleaded ex-facie not maintainable.

Secondly the petitioner BIA has no locus, hence the petition not maintainable and liable to be dismissed.

Thirdly the review petition does not make out any error, much less any apparent error in the order dated 22.02.2022 of which the review is sought.

Further, Respondent MePDCL has submitted that both Clause 22 of MSERC (MYT) Regulations, 2014 and clause 21 of the MSERC (Conduct of Business) Regulations, 2007 put a limitation that Review can be preferred only by persons aggrieved and the Review Petitioner is not person aggrieved by the decision and hence has no locus to file the instant review petition.

For para 8-10 of the petition, Respondent MePDCL submitted that the contents of the corresponding paragraphs are the biggest admission of the fact that the present petition is not a review petition, but rather an appeal in disguise. It is an attempt to urge the Commission to substitute its view. This is not the remit of a review petition and the attempt being illegal must be quashed with an iron hand. Even on merits, what has been set out by the petitioner is misconceived and malafide. In reply to the contents of the corresponding paragraph it is submitted that the Hon'ble Commission has approved the Trajectory of loss in MYT order dated 31.03.2018 in Case no.09/2017 based on commitment given by MePDCL for the implementation of UDAY Scheme.

It can be inferred that the targets set as per UDAY scheme have not yet been met and therefore more investment is required to bring to pan India Level. Therefore, to place the trajectory of losses based on the schemes shall not be a reliable one. And therefore, only the actual data of the previous year and the current year are the reliable indicators to fix for the trajectory of Losses. It may be noted that in the year 2018-19, there was no work completed for voltage improvement other than extension of 11kv lines and LT lines including connections to the consumers under Saubhagya. Therefore, the contentions put forth by BIA are liable to be rejected.

BIA has cited example of different utilities. These cannot be the yardstick because as already stated in the paragraphs above, considering the special factors and circumstances of the area of supply of the Distribution Licensee, this Hon'ble Commission is not bound by the orders passed by the other State Commissions. Even otherwise, it is wrong to infer that the T&D loss trajectory of these utilities is as per the MOU of UDAY scheme as nowhere the word MOU or UDAY is mentioned in the so called Tariff Orders.

That in view of the submission of facts and law made above in the instant reply of the MePDCL to the Review Petition, the prayers made by the Review Petitioner in the corresponding paragraph are not maintainable and liable to be rejected at the threshold.

Conclusion:

Commission after detailed examination of the petition filed by BIA and response to review petition filed by MePDCL and after hearing of the counsel for the petitioner BIA and counsel for respondent MePDCL passed this order on this 22nd day of September 2022.

There was no error in computation of T&D losses for FY 2018-19 in the True up orders dated 22.02.2022.

Commission has approved T&D losses at 36.20 % for FY 2018-19 cautiously as per the Energy balance filed, and reasons put forth by the MePDCL after detailed scrutiny and verification of audited statement of accounts, power procurement and Energy sales within the state and outside the state. No erroneous computations were allowed as claimed by the petitioner BIA in the True up process for FY 2018-19.

Commission has considered the T&D loss levels at 36.20 % after perusal of the power requirement and availability at the Distribution periphery of the Meghalaya, to cater power to 4.74 Lakh consumers enabling the Respondent MePDCL to ensure **mandatory** 24/7 power to all as per the National Tariff policy without subjecting any reduction in the procurement. The operational performance of the Distribution system depends upon the network efficiency and mandatory periodical O&M parameters. The approved tariffs and performance levels of the Respondent MePDCL acknowledged at large during the FY 2018-19.

Regulation 22 of MSERC MYT Regulation 2014 mandates, review petition shall be filed within 60 days of the order passed by the Commission.

The petitioner BIA has filed Review petition within the prescribed 60 days.

Regulation 21 of MSERC (Conduct of Business) Regulations 2007 specifies that, A person aggrieved by a decision or order of the Commission from which no appeal is preferred, or is not allowed to be preferred, can seek a review of the order if new and important facts which, after the exercise of due diligence, were not within his knowledge or could not be produced by him at the time when the order was passed or on account of some mistake or error apparent on the face of record or for any other sufficient reason, by making an application within 60 days of the date of the order.

Commission considers that the Byrnihat Industries Association (BIA) is not a person aggrieved with the decision or order of the commission in this instant true up orders for FY 2018-19 dated 22.02.2022. The BIA was permitted to participate in the public hearing process before determination of ARR wherein it was notified that ARR and Tariff order shall be pronounced as per the MSERC Regulations 2014.

Commission further considers that no error was crept in nor erroneous computations were taken place in the approval of T&D loss and AT&C losses for FY 2018-19 True up orders dated 22.02.2022.

Commission had considered all the facts and files on record and audited statement of accounts before finalizing the T&D and AT&C losses with reference to the actual performance of the Respondent MePDCL.

The averment of the BIA in the Oral submission claiming the 0 % transmission losses recorded of pioneer carbide at 132 kv point of supply and 0.5 % at 33 kv during the last 06 to 10 years shall be referred to MePDCL/MeECL for a thorough analysis and shall be requested to ensure the technology if any enforceable in the state of Meghalaya.

The True up process for FY 2018-19 and FY 2019-20 was over delayed, the recovery of Revenue Gap/surplus due to delay would attribute interest cost which ultimately burden the genuine users/licensee.

The appeal put forth by the petitioner BIA shall be kept in view and appropriate Directives shall be passed for implementation to achieve cost of supply model Tariffs as mandated in the National Tariff Policy.

In view of the submission of the Respondent MePDCL the following Directives are passed.

Respondent MePDCL shall ensure implementation of the activities contemplated in the UDAY Scheme expeditiously while achieving the set of targets in the areas of T&D and AT&C losses.

Implementation of capital investment plan utilizing the Govt. Grants and contributions borrowings if any for achieving the network up gradation and efficiency parameters.

MePDCL shall file voltage wise network cost and ensure Energy audit upto 11 kv level for assessment of voltage wise losses in order to segregate the Distribution business and retail tariffs. A time bound program may be fixed to file the above data and submitted to the commission.

The Review Petition filed by BIA stands disposed off.

Sd/-	**Sd/-**
Shri. Roland Keishing	**Shri. P.W.Ingty, IAS (Retd.)**
(Member)	**(Chairman)**