

BEFORE
THE BIHAR ELECTRICITY REGULATORY COMMISSION
VIDYUT BHAWAN - II, PATNA

Review Petition on BEREC Tariff Order for
True-Up for FY 2018-19,
Annual Performance Review (APR) for FY 2019-20
And
Determination of ARR and Tariff for FY 2020-21
For
Bihar State Power Transmission Company Limited
(BSPTCL)
Patna



Chief Engineer (STU),
1st Floor, Vidyut Bhawan - I,
Jawaharlal Nehru Marg,
Patna - 800 021

06th July 2020

Patna

Filing No.:

Case No.:

IN THE MATTER OF **Filing of the Review Petition on BERC Tariff Order in Case No. 32 of 2019 for True-up of FY 2018-19, Annual Performance Review (APR) for FY 2019-20, and Aggregate Revenue Requirement (ARR) and Tariff for FY 2020-21 under BERC (Conduct of Business) Regulations, 2005 and under Section 94(1)(f) of The Electricity Act, 2003**

AND

IN THE MATTER OF **Bihar State Power Transmission Company Limited (herein after referred to as 'BSPTCL' or 'Petitioner'), which shall mean for the purpose of this Petition the Licensee, having its registered office at Vidyut Bhawan -I, Jawaharlal Nehru Marg, Patna - 800 021**
THE APPLICANT

The Petitioner respectfully submits as under:

Bihar State Power Transmission Company Limited (BSPTCL) is a Company registered under the Companies Act, 1956 in June 2012, to which the State Government through the Department of Energy has vested the transmission undertakings of the erstwhile Bihar State Electricity Board (BSEB) in Bihar and is a fully owned subsidiary company of Bihar State Power (Holding) Company Limited (BSPHCL).

BSPTCL owns and operates the transmission system above 33 kV, i.e., at 132 kV and 220 kV system and is presently carrying out the function of intra-State transmission and wheeling of electricity in the State of Bihar.

BSPTCL filed its Tariff Petition for Truing-up of FY 2018-19, Annual Performance Review (APR) of FY 2019-20 and Annual Revenue Requirement (ARR) and determination of Transmission tariff for FY 2020-21 on 15 November 2019. The Petition was filed under Section 62 of Electricity Act, 2003 read with Bihar Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff)

Regulations, 2007 and Bihar Electricity Regulatory Commission (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018.

The Hon'ble Commission (also referred to as 'BERC') admitted the Petition as Case No. 32 of 2019 on 11.12.2019, after submission of additional data/information and clarifications by BSPTCL vide Letter No.136 dated 6 December 2019.

The Public Hearing was conducted as scheduled in the Court Room of BERC on 13 February 2020. The Hon'ble Commission issued the Tariff Order on BSPTCL's Petition on 20 March 2020.

BSPTCL is submitting this Review Petition on the Hon'ble Commission's Order dated 20 March 2020, in accordance with Regulation 31 (Review of decisions, directions, and orders) of the BERC (Conduct of Business) Regulations, 2005, reproduced below:

"31 Review of the decisions, directions, and orders

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

Provided that the Commission may, if it is satisfied, that the petitioner was prevented by sufficient cause from filing the review petition within the said period, allow it to be filed within a further period not exceeding 30 days, subject to such terms and conditions which commission may consider appropriate.

(2) An application for such review shall be filed in the same manner as a petition under Chapter II of these Regulations

(3) The application shall be accompanied by such fee, if any, as may be laid down by the Commission"

BSPTCL respectfully submits that the present review petition has been filed with delay of 33 days, owing to outbreak of COVID 19 Pandemic.

BSPTCL in case no 09 /2020 has prayed before Hon'ble Commission for seeking relaxation in directives/ regulations of BERC in compliance of Tariff order dated 20.03.2020 owing to outbreak of COVID 19 Pandemic. Excerpt of the order dated 04.06.2020 in the aforesaid case is reproduced below:-

"2.4

Owing to the lockdown and the advisory issued by the Government to maintain social distancing, BSPTCL respectfully submits that at this stage, it is not in a position to comply

with such conditions/ directives /Regulations of the Commission that are applicable to BSPTCL as a Transmission Licensee. BSPTCL is currently functioning with very limited number of manpower and therefore is not at its full efficiency. BSPTCL respectfully submits that there is no clarity on the date of lifting the lockdown or the estimated time for the situation to get normalized.

"4.8 Commission of the view that it is premature to allow this prayer at this juncture. The petitioner has the liberty to seek condonation of delay giving proper justification at the time of filing of Review petition."

In view of the uncertain situation due to outbreak of COVID 19-Pandemic, BSPTCL request to condone delay of 33 days for filling of review petition.

BSPTCL requests the Hon'ble Commission to admit the Review Petition since:

- a) No appeal has been preferred so far;
- b) The Review Petition has been filed with delay of 33 days after issue of the Tariff Order;
- c) The Petitioner has identified certain errors/apparent on the face of the record.

The specific grounds on which the review is being sought have been identified against each aspect of the Order on which review is being sought, in subsequent paragraphs.

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1 Debt Equity Ratio

Regulation 71 (1) of the BERC (Terms and Conditions for Determination of Tariff) Regulations, 2007 specifies as follows:

"71 Debt - Equity Ratio

(1) In case of all projects, the debt - equity ratio as on the date of commercial operation shall be 70:30 for determination of tariff, provided that the commission may in deserving case consider equity higher than 30% for purpose of determination of tariff, where the transmission licensee is able to establish to the satisfaction of the Commission that the deployment of equity more than 30% was in the interest of general public.

Provided that

(i) in case of a project, if the actual equity employed is less than 30%, the actual debt and equity employed shall be taken for determination of tariff

(ii) in case of existing projects the actual debt: equity ratio shall be used for tariff determination. However any expansion shall be governed by clause (1) above.

(2) The debt and equity amount arrived at in accordance with clause (1) shall be used for calculation of interest on loan, return on equity, Advance Against Depreciation and Foreign Exchange Rate Variation."

Regulation 24 of the BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018 specifies as follows:

"24. Interest and finance charges on loan capital

(a) The Transmission Licensee or SLDC, as the case may be, shall provide detailed loan-wise, project wise and utilization-wise details of all the loans.

(b) 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 loan shall be considered for determination of interest on loan:

(c) Actual loan or normative loan, if any, shall be referred as gross normative loan in this Regulation."

Also, Regulation 22(a) of BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018 specifies as follows:

"(a) Return on equity shall be computed on 30% of the capital cost or actual equity, whichever is lower."

As per the relevant clauses of BERC (Terms and Conditions for Determination of Tariff) Regulations, 2007 and BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018 as reproduced above, it is evident that if the actual Equity deployed for capitalization is more than 30%, then the Equity shall be restricted to 30% and the balance shall be treated as normative loan.

FY 2018-19

The Hon'ble Commission in Section 4.3 of the Tariff Order dated 20 March 2020 has worked out the Debt: Equity ratio of FY 2018-19. The relevant extracts of the Tariff Order are as follows:

"The Commission has approved the capital investment, capitalization and funding of capitalization as indicated in Table 4.7 hereunder:

Table 4.7: Capitalisation and funding of capitalisation approved for FY 2018-19

(Rs. Crore)

<i>Source of funding</i>	<i>Capitalization</i>	<i>Actual Equity</i>	<i>Actual Debt</i>	<i>Normative Equity</i>	<i>Normative Debt</i>
ADB	106.12		106.12		106.12
ADB-IDC	10.70		10.70		10.70
BRGF, State Plan & IRF	1087.98	1087.98		326.39	761.59
<i>Total</i>	<i>1204.80</i>	<i>1087.98</i>	<i>116.82</i>	<i>326.39</i>	<i>878.41</i>
<i>Direct Capitalization</i>	<i>14.16</i>				
<i>Less: Disposal/Sale/Transfer of Assets</i>	<i>19.56</i> <i>-5.40</i>	<i>-5.40</i>		<i>-1.62</i>	<i>-3.78</i>
<i>Gross Total</i>	<i>1199.40</i>	<i>1082.58</i>	<i>116.82</i>	<i>324.77</i>	<i>874.63</i>

"

As seen from the above extracts, the Hon'ble Commission has approved actual capitalization of Rs. 1199.40 Crore for FY 2018-19. The Hon'ble Commission in the above Table, has also approved the actual debt and actual equity deployed for FY 2018-19. As seen from the above extracts, the actual debt: equity ratio is 10:90. This indicates that the actual equity in the capitalization is much more than 30%.

As already discussed in the above paragraph, the BERC (Terms and Conditions for Determination of Tariff) Regulations, 2007 provides for equity to be limited to 30% of the capitalization, when actual equity deployed is more than 30%, which is the case in FY 2018-19.

However, as seen from the above extracts, the Hon'ble Commission has worked out normative debt of Rs. 874.63 Crore and normative equity of Rs. 324.77 Crore. The Debt: Equity ratio thus considered by the Hon'ble Commission is 73:27. The Hon'ble Commission has considered the normative equity below 30% even when actual equity is much more than 30%. The Hon'ble Commission as per the BERC (Terms and Conditions for Determination of Tariff) Regulations, 2007 should have considered debt of Rs. 839.58 Crore (70%) and equity of Rs. 359.82 Crore up to the ceiling level of 30%.

The Hon'ble Commission has thus erred in considering the Debt: Equity ratio for FY 2018-19 as 73:27 instead of the normative ratio of 70:30. This is clearly an error apparent on the face of record and hence, BSPTCL request the Hon'ble Commission to review the Tariff Order on this issue, and allow the consequential impact to BSPTCL.

The impact of the Debt: Equity considered at 73:27 instead of 70:30, as specified in the Regulations, is seen on the computation of Interest and Finance Charges and Return on Equity for FY 2018-19.

BSPTCL has worked out the impact of considering the debt: equity ratio of 73:27 instead of normative ratio of 70:30 in the following Table:

**Table 1: Impact of erroneous consideration of Debt: Equity Ratio for FY 2018-19
(Rs. Crore)**

Particulars	As approved by BERC	As worked out in Review	Net Impact on BSPTCL
Interest and Finance Charges			
Opening Loan	1746.07	1746.07	
Addition during the year	874.63	839.58	
Normative Repayment	193.45	193.45	
Closing Loan	2427.25	2392.20	
Average Loan	2086.66	2069.14	
Interest Rate	10.50%	10.50%	
Interest on Loan	219.10	217.26	
Other Finance Charges	0.01	0.01	
Interest and Finance Charges	219.11	217.27	(1.84)
Return on Equity			
Opening Equity on projects commissioned w.e.f. 1.4.2015	672.50	672.50	

Particulars	As approved by BERC	As worked out in Review	Net Impact on BSPTCL
Addition during the year	324.77	359.82	
Closing Equity	997.27	1032.32	
Average Equity	834.89	852.41	
Rate of Return on Equity	15.50%	15.50%	
Return on Equity on projects commissioned w.e.f. 1.4.2015	129.41	132.13	
Return on Equity on projects before 1.4.2015	52.56	52.56	
Total Return on Equity	181.97	184.69	2.72
Net Impact on BSPTCL due to erroneous consideration of Debt: Equity Ratio [Interest = RoE]			0.88

Thus, the net impact of erroneous consideration of Debt: Equity Ratio for FY 2018-19 alone is a net reduction of Rs. 0.88 crore in the approved ARR. Further, there will be a consequential impact on interest expenses and RoE for FY 2019-20 and FY 2020-21, on account of restatement of the opening loans and equity. This impact is computed in the following paragraphs, along with the impact for the respective year.

FY 2019-20 and FY 2020-21

Similarly, for FY 2019-20 and FY 2020-21, the Hon'ble Commission has erroneously considered the Debt: Equity Ratio, while computation of Interest and Finance Charges and Return on Equity. The relevant extracts of Section 5.3 and Section 6.3 for FY 2019-20 and FY 2020-21, respectively, of the Tariff Order are as follows:

“The Commission has approved the funding of capitalization for FY 2019-20 as given in the table 5.5 below:

Table 5.5: Approved funding of capitalisation considered in review for FY 2019-20

(Rs. Crore)

Source of funding	Capitalization for FY 2019 -20	Actual Equity	Actual Debt	Normative Equity	Normative Debt
ADB	364.67		364.67		364.67
ADB-IDC	43.00		43.00		43.00
BRGF, State Plan & IRF -	969.17	969.17		290.75	678.42

<i>Source of funding</i>	<i>Capitalization for FY 2019 -20</i>	<i>Actual Equity</i>	<i>Actual Debt</i>	<i>Normative Equity</i>	<i>Normative Debt</i>
<i>ongoing project</i>					
<i>Sub-Total</i>	1376.84	969.17	407.67	290.75	1086.09
<i>Direct addition of cost of land (equity 30% and debt 70%)</i>	11.29			3.39	7.90
<i>Gross Total</i>	1388.13	969.17	407.67	294.14	1093.39

“

“Thus the Commission has considered total capitalization at Rs.1556.79 Crore as detailed in the Table 6.2 and 6.3 and IDC of Rs.73.20 Crore (77.25 - 4.05 as detailed in Table 6.4 above). The total capitalization from CWIP works out to Rs.1629.99 Crore including IDC (1556.79+73.20) during FY 2020-21. Thus the Commission approves the funding of capitalization for FY 2020-21 as per the table 6.5 below:

Table 6.5: Funding of capitalisation approved for FY 2020-21

(Rs. Crore)

<i>Source of Funding</i>	<i>Capitalization for FY 2020-21</i>	<i>Source of Funding- Actual</i>			<i>Source of Funding- Normative</i>		
		<i>Equity</i>	<i>Debt</i>	<i>Grant</i>	<i>Equity</i>	<i>Debt</i>	<i>Grant</i>
ADB	144.08		144.08			144.08	
ADB-IDC	16.99		16.99			16.99	
PSDF	65.67		0	65.67		0	65.67
<i>BRGF, State Plan & IRF-ongoing Projects</i>	578.41	578.41			173.52	404.89	
<i>State Plan-upcoming Project</i>	768.63	153.73	614.9		153.73	614.9	
<i>State Plan-upcoming-IDC</i>	56.21	11.24	44.97		11.24	44.97	
<i>Sub-Total</i>	1629.99	743.38	820.95	65.67	338.49	1225.83	65.67
<i>Direct Addition of Cost of Land (equity 30% and Debt 70%)</i>	13.3				3.99	9.31	
<i>Total</i>	1643.29				342.48	1235.14	

“

As seen from the above extracts, the Hon'ble Commission approved capitalization of Rs. 1388.13 Crore for FY 2019-20 and Rs. 1643.29 Crore for FY 2020-21. The Hon'ble Commission in the above Tables has also approved the actual debt and actual equity proposed to be deployed in FY 2019-20 and FY 2020-21. As seen from the above extracts, the actual debt: equity ratio is 30:70 in FY 2019-20 and actual debt: equity: grant ratio is 51:45:4 in FY 2020-21. This indicates that the actual equity contribution in the capitalization is much more than 30%.

As already discussed in the above paragraphs, the BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018 provides for equity to be limited to 30% of the capitalization, when actual equity deployed is more than 30%, which is the case in FY 2019-20 and FY 2020-21.

However, as seen from the above extracts, the Hon'ble Commission has worked out normative debt of Rs. 1093.39 Crore and Rs. 1235.14 Crore and normative equity of Rs. 294.14 Crore and Rs. 342.48 Crore for FY 2019-20 and FY 2020-21, respectively. The Debt: Equity ratio thus, considered by the Hon'ble Commission is 79:21 for FY 2019-20. Similarly, for FY 2020-21, the debt: equity: grant ratio considered by Hon'ble Commission is 75:21:4. The Hon'ble Commission has considered the normative equity below 30% even when actual equity is much more than 30% for both the years. The Hon'ble Commission as per the BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018 should have considered debt of Rs. 971.69 Crore (70%) and equity of Rs. 416.44 Crore (30%) for FY 2019-20. Similarly, the Hon'ble Commission should have considered the debt of Rs. 1,084.63 Crore (66%) and equity of Rs. 492.99 Crore (30%) and grant of Rs. 65.67 Crore (4%) for FY 2020-21.

The Hon'ble Commission has thus, erred in considering the Debt: Equity ratio of 79:21 for FY 2019-20 and Debt: Equity: Grant ratio of 75:21:4 for FY 2020-21, instead of the normative ratio as specified in the Regulations. Equity in both the years should have been considered as 30% of capitalisation, as actual equity is more than 30% for both the years. For FY 2019-20, balance should have been considered as Debt, i.e., 70%, while in FY 2020-21, due to availability of Grant of 4%, normative loan should have been considered as 66% (70%-4%). This is clearly an error apparent on the face of the record and hence, BSPTCL requests the Hon'ble Commission to review the Tariff Order on this issue and allow the consequential impact to BSPTCL.

The impact of the erroneous Debt: Equity ratio considered at 79:21 for FY 2019-20 and Debt: Equity: Grant ratio considered at 75:21:4 for FY 2020-21 instead of the

normative ratio as specified in the Regulations, is seen on the computation of Interest and Finance Charges and Return on Equity for FY 2019-20 and FY 2020-21.

BSPTCL has worked out the impact of considering erroneous debt: equity ratio for FY 2019-20 and FY 2020-21 in the following Tables:

**Table 2: Impact of erroneous consideration of Debt: Equity Ratio for FY 2019-20
(Rs. Crore)**

Particulars	As approved by BERC	As worked out in Review	Net Impact on BSPTCL
Interest and Finance Charges			
Opening Loan	2427.25	2392.20	
Addition during the year	1093.99	971.69	
Normative Repayment	257.43	257.43	
Closing Loan	3263.81	3106.46	
Average Loan	2845.53	2749.33	
Interest Rate	10.50%	10.50%	
Interest on Loan	298.78	288.68	
Other Finance Charges	0.01	0.01	
Interest and Finance Charges	298.79	288.69	(10.10)
Return on Equity			
Opening Equity on projects commissioned w.e.f. 1.4.2015	997.27	1032.32	
Addition during the year	294.14	416.44	
Closing Equity	1291.41	1448.76	
Average Equity	1144.34	1240.54	
Rate of Return on Equity	18.78%	18.78%	
Return on Equity on projects commissioned w.e.f. 1.4.2015	214.93	233.00	
Return on Equity on projects before 1.4.2015	63.68	63.68	
Total Return on Equity	278.61	296.68	18.07
Net Impact on BSPTCL due to erroneous consideration of Debt: Equity Ratio [Interest = RoE]			7.97

**Table 3: Impact of erroneous consideration of Debt: Equity Ratio for FY 2020-21
(Rs. Crore)**

Particulars	As approved by BERC	As worked out in Review	Net Impact on BSPTCL
Interest and Finance Charges			
Opening Loan	3263.81	3106.46	
Addition during the year	1235.13	1084.63	
Normative Repayment	330.48	330.48	
Closing Loan	4168.45	3860.61	
Average Loan	3716.13	3483.54	
Interest Rate	10.50%	10.50%	
Interest on Loan	390.19	365.77	
Other Finance Charges	0.01	0.01	
Interest and Finance Charges	390.20	365.78	(24.42)
Return on Equity			
Opening Equity on projects commissioned w.e.f. 1.4.2015	1291.41	1448.76	
Addition during the year	342.48	492.99	
Closing Equity	1633.89	1941.75	
Average Equity	1462.65	1695.26	
Rate of Return on Equity	18.78%	18.78%	
Return on Equity on projects commissioned w.e.f. 1.4.2015	274.20	318.40	
Return on Equity on projects before 1.4.2015	63.68	63.68	
Total Return on Equity	338.38	382.08	43.69
Net Impact on BSPTCL due to erroneous consideration of Debt: Equity Ratio [Interest = RoE]			19.26

Therefore, BSPTCL respectfully requests the Hon'ble Commission to review the Debt Equity Ratio for FY 2018-19, FY 2019-20 and FY 2020-21 as approved in Tariff Order, under the head, "error apparent on the face of the record" and approve the Interest and Finance Charges and Return on Equity based on the Normative Debt: Equity Ratio of 70:30. The Hon'ble Commission is hence, requested to additionally approve Rs. 28.11 Crore (Rs. 0.88 Crore+ Rs. 7.97 Crore + Rs. 19.26 Crore) for FY 2018-19, FY 2019-20 and FY 2020-21, respectively, as worked out in the above paragraphs, on account of erroneous consideration of Debt: Equity ratio. The

impact of the above error needs to be allowed with the associated carrying cost for the respective Years.

2 Employee Expenses

Regulation 21 (b) and 21.1 of BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018 provides for computation of employee expenses on the basis of approved norm escalated by Consumer Price Index (CPI). The relevant extracts of the Regulations are as follows:

"21 (b) Norms shall be defined in terms of number of personnel per ckt/km (for different categories of transmission lines for e.g. 400 KV, 220 KV, 132 KV etc. Lines) and number of personal per bay (for different categories of bay for e.g. 400 KV, 220 KV, 132 KV etc. Bays) along with annual expenses per personnel for Employee expenses....."

"21.1 Employee Cost

Employee cost shall be computed as per the approved norm escalated by consumer price index (CPI), adjusted by provisions for expenses beyond the control of the Transmission Licensee and one time expected expenses, such as recovery/adjustment of terminal benefits, implications of pay commission, arrears and Interim Relief, governed by the following formula:

$$EMP_n = (EMP_b * CPI \text{ inflation}) + Provision$$

Where:

EMP_n: Employee expense for the year n

EMP_b: Employee expense as per the norm

CPI inflation: is the average increase in the Consumer Price Index (CPI) for immediately preceding three years

Provision: Provision for expenses beyond control of the Transmission Licensee and expected one-time expenses as specified above.

Till the norms are specified by the Commission the employee cost shall be determined on the basis of actual historical cost"

In line with the above clauses, the Hon'ble Commission determined the norms for computation of employee expenses and accordingly approved the employee expenses vide Tariff Order for FY 2019-20 dated 15 February 2019. The relevant extracts are as follows:

"The Commission has computed the norm for employee expenses in the Table 7.12 above. The Commission considering the norm has computed the total employee cost for the control period as detailed in the Table below:

Table 7.15: Employee cost computed based on norm and considered for the control period

Sl. No	Particulars	Base Value	2019-20	2020-21	2021-22
1	Average annual CPI index		4.28%	4.28%	4.28%
2	Norms-Number of personnel per Ckt/km	0.082	0.086	0.089	0.093
3	Norms-Number of personnel per substation	6.643	6.927	7.223	7.533
4	Transmission line in Ckt KM		15500	18500	19700
5	No of substations		146	155	158
6	Norms-Annual expenses per personnel (Rs.lakh)	0.0746	7.7802	8.1132	8.4605
7	Employee cost (Number of personal per Ckt/km basis) (2*4*6)/100 (Rs. Crore)		103.37	134.16	155.36
8	Employee cost (Number of personal per substation basis) (3*5*6)/100 (Rs. Crore)		78.68	90.84	100.69
9	Total Employee cost for the year (7+8) (Rs. Crore)		182.06	225.00	256.05

"

As seen from the above extract, the Hon'ble Commission has worked out the base values of norms for computation of Employee expenses for the Control Period from FY 2019-20 to FY 2021-22, as specified in Regulation 21 (b) of BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018.

The base norms worked out by the Hon'ble Commission in Tariff Order dated 15 February 2019 were:

1. 0.0822 personnel per Ckt km;
2. 6.6427 personnel per sub-station;
3. Annual Expenses of Rs. 7.7461 Lakh or Rs. 0.07461 Crore per personnel.

As seen from the above extract of Tariff Order dated 15 February 2019, the Hon'ble Commission has adhered to the Regulation 21.1 of BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018 and escalated the base norms by average annual CPI Index for computation of employee expenses for FY 2019-20 to FY 2021-22.

However, in the Tariff Order dated 20 March 2020, the Hon'ble Commission has adopted a different approach than that specified in the Regulations. The Hon'ble Commission has applied the same base norms as worked out in the Tariff Order dated 15 February 2019 for computation of Employee expenses for FY 2019-20 and FY 2020-21, without applying CPI inflation Index, thereby approving employee expenses which are not in accordance with Regulation 21.1 of BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018. The Hon'ble Commission has stated in the impugned Order that there has been an error in computation of norms in Tariff Order dated 15 February 2019 and therefore, it has considered the base norms for computation of employee expenses for FY 2019-20. The Hon'ble Commission has considered the same norms again without any escalation for computation of employee expenses for FY 2020-21. The relevant extracts of the impugned Tariff Order dated 20 March 2020 are as follows:

"The Commission also observed that there are an inadvertent error in serial number 2&3 in the Table 7.15 of the MYT order dated 15.02.2019 wherein normative number of personnel per Ckt/km and number of personal per substation determined in terms of regulation 21 have been inflated on account of inflation. Accordingly the Commission in terms of regulation 21 read with regulation 21(2) has considered normative number of personnel per Ckt/km and number of personal per substation as approved in Table 7.12 of the MYT order dated 15.02.2019 for the purpose of APR of 2019-20."

"The Commission has considered the norm for employee expenses for FY 2019-20 in the para 5.8.1 above as base norm for FY 2020-21 and accordingly has computed the total employee expenses for FY 2020-21 as detailed in the Table 6.20 below:"

BSPTCL submits that the approach adopted by Hon'ble Commission for computation of employee expenses is incorrect. On one hand, the Hon'ble Commission has considered the inflation of 4.22% as submitted by BSPTCL on the annual expenses per personnel for FY 2019-20 and on the other hand, the Hon'ble Commission has not applied the same inflation index to number of personnel per Ckt/km and number of personnel per substation stating that there is an inadvertent error in serial number 2&3 in the Table 7.15 of the MYT Order, and that the base norms of personnel per Ckt/km and personnel per substation have been inflated on account of inflation.

Regulation 21.1 of BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018 provides for computation of Employee Expenses as per approved

norms escalated by escalated by Consumer Price Index (CPI). The relevant extracts are as follows:

"21.1 Employee Cost

Employee cost shall be computed as per the approved norm escalated by consumer price index (CPI), adjusted by provisions for expenses beyond the control of the Transmission Licensee and one time expected expenses....."

Norms which are to be determined for computation of employee expenses, are stated in Regulation 21 (b) of BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018. These norms are to be escalated by Consumer Price Index (CPI) as stated in Regulation 21.1. The relevant extracts of Regulation 21 (b) are as below:

"21 (b) Norms shall be defined in terms of number of personnel per ckt/km (for different categories of transmission lines for e.g. 400 KV, 220 KV, 132 KV etc. Lines) and number of personal per bay (for different categories of bay for e.g. 400 KV, 220 KV, 132 KV etc. Bays) along with annual expenses per personnel for Employee expenses...."

BSPTCL submits that when Regulation 21.1 is read with Regulation 21 (b) it is evident that **all the three norms** stated in Regulation 21 (b) are to be escalated by Consumer Price Index as stated in Regulation 21.1.

The Hon'ble Commission however while approving employee expenses have escalated only one norm i.e. annual expenses per personnel with CPI inflation, while for the other two norms the Hon'ble Commission has considered the same base value as approved in Tariff Order dated 15 February 2019 without any escalation.

Considering no inflation on the other two norms defined in Regulation 21 (b) and adopting only the base norms for computation of employee expenses for FY 2019-20 and FY 2020-21 is not in accordance with Regulation 21.1 read with Regulation 21 (b) of the BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018.

The Hon'ble Commission has therefore, erred in computation of employee expenses for FY 2019-20 and FY 2020-21 by not approving employee expenses in line with the appropriate Regulations as explained in the above paragraphs. This is clearly an error apparent on the face of record and the Hon'ble Commission is hence, requested to review the Tariff Order on this issue, and allow the consequential impact to BSPTCL.

BSPTCL has computed the employee expenses based on the norms approved in Table 7.15 of the MYT Order dated 15 February 2019 and after considering the CPI inflation index of 4.22% as approved by the Hon'ble Commission in Tariff Order dated 20 March 2020. The following Table shows the impact of not considering the CPI inflation index on the base norms for FY 2019-20 and FY 2020-21.

Table 4: Impact of not considering CPI Inflation of Employee expenses for FY 2019-20 and 2020-21 (Rs. Crore)

Particulars	Base Norm	FY 2019-20		FY 2020-21	
		Approved by BERC	Claimed in Review	Approved by BERC	Claimed in Review
CPI Inflation		-	4.22%	-	4.22%
Norms - Number of personnel per Ckt Km	0.08220	0.08220	0.0857	0.08220	0.0893
Norms-Number of personnel per substation	6.6427	6.6427	6.9230	6.6427	7.2152
Norms-Annual expenses per personnel (Rs. Lakh)	7.461	7.7759	7.7759	8.1040	8.1040
Transmission Line Length (Ckt KM)		15772	15772	16696	16696
No. of Sub-stations		146	146	152	152
Employee Cost for Line Length		100.81	105.06	111.22	120.81
Employee Cost for Sub-Station		75.41	78.60	81.83	88.88
Total Employee Expenses		176.22	183.66	193.05	209.68
Impact on BSPTCL claimed in Review			7.44		16.64

Therefore, BSPTCL respectfully requests the Hon'ble Commission to review the Employee expenses of FY 2019-20 and FY 2020-21 as approved in Tariff Order, under the head, "error apparent on the face of the record" and approve the Employee Expenses after considering the normative CPI inflation on the base norms as specified in Regulation 21.1 of BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018. The Hon'ble Commission is hence, requested to additionally approve Rs. 24.07 Crore (Rs. 7.44 Crore + Rs. 16.64 Crore) for FY 2019-20 and FY 2020-21, respectively, on account of Employee Expenses as worked out in the above Table, along with the associated carrying cost.

3 Interest on Working Capital

Regulation 73 (4) of BERC (Terms and Conditions for Determination of Tariff) Regulations, 2007 provides for computation of Interest on Working Capital. The relevant extracts are as follows:

“(4) Interest on working capital

(i) Working capital shall cover the following:

(a) Operation and maintenance expenses for one month

(b) Maintenance spares @ 1% of the historical cost escalated at 6% per annum from the date of commercial operation and

(c) Receivables equivalent to two months of transmission charges calculated on target availability level.

(ii) Rate of interest on working capital shall be on normative basis and shall be equal to the short –term Prime Lending Rate of State Bank of India on 1st April of the year in which the project or part thereof (as the case may be) is declared under commercial operation. The interest on working capital shall be payable on normative basis notwithstanding that the transmission licensee may not have taken working capital loan from any outside agency or taken at different rates and amounts.”

Also, Regulation 26 of BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018 provides for computation of Interest on Working Capital for the Control Period from FY 2019-20. The relevant extracts are as follows:

“26. Interest on working capital

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

(i) Receivables equivalent to two (2) month of transmission charges calculated on target availability level.

(ii) O&M Expenses of one (01) month.

(iii) Maintenance spares @ 15% of O&M expenses for one month.

Less:

(iv) Depreciation, return on equity and contribution to contingency reserves equivalent to two months.

(v) Amount of security deposits from Transmission System users, if any, held during the year except the security deposits held in the form of Bank Guarantee from Transmission System Users.

As seen from the above clauses, both the Regulations provide for computation of Receivables based on the amount equivalent to two (2) months of transmission

charges calculated on target availability level. In other words, the Receivables need to be computed based on the approved Transmission Charges for the respective period.

The Hon'ble Commission has worked out receivables differently than the methodology specified in Regulation 73 (4) of BERC (Terms and Conditions for Determination of Tariff) Regulations, 2007 and Regulation 26 of BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018. The Hon'ble Commission while computing Interest on Working Capital for FY 2018-19 and FY 2019-20 has calculated receivables based on two months of revised ARR approved in Truing-up of FY 2018-19 and Annual Performance Review of FY 2019-20 vide Tariff Order dated 20 March 2020, rather than based on two months of revenue based on approved Transmission Charges. The Hon'ble Commission will appreciate that conceptually also, the revenue and hence, the receivables will accrue based on the tariff charged in the respective period, rather than based on the revised ARR approved at the time of true-up for the respective year.

The Hon'ble Commission has therefore, erred in computation of receivables while calculating Interest on Working Capital for FY 2018-19 and FY 2019-20. This is an error apparent on the face of record and the Hon'ble Commission is requested to review the Tariff Order on this issue, and allow the consequential impact to BSPTCL.

BSPTCL has computed the impact due to erroneous consideration of receivables while computing Interest on Working Capital for FY 2018-19 and FY 2019-20. BSPTCL for the computation of receivables has considered the revenue approved by the Hon'ble Commission for FY 2018-19 and FY 2019-20. BSPTCL has considered Rs. 1194.38 Crore for FY 2018-19 and Rs. 1002.32 Crore for FY 2019-20 as revenue for computation of receivables as specified in the respective clauses of the Regulations. The following Table shows the impact of the same on BSPTCL.

Table 5: Impact of erroneous consideration of Receivables in Interest on Working Capital for FY 2019-20 and 2020-21 (Rs. Crore)

Particulars	FY 2018-19		FY 2019-20	
	Approved by BERC	Claimed in Review	Approved by BERC	Claimed in Review
O&M Expenses for One month	20.00	20.00	26.17	26.17
Maintenance spares	54.73	54.73	3.93	3.93
Receivables - 2 months	126.81	199.06	172.04	167.05

Less: Dep, RoE and CC for 2 Months			89.34	89.34
Total Working Capital	201.54	273.79	112.79	107.81
Rate of interest	12.20%	12.20%	9.50%	9.50%
Interest on Working Capital	24.59	33.40	10.71	10.24
Impact on BSPTCL to be claimed in Review		8.81		(0.47)

Therefore, BSPTCL respectfully requests the Hon'ble Commission to review the computation of Receivables in Interest on Working Capital of FY 2018-19 and FY 2019-20 in Tariff Order, under the head, "error apparent on the face of the record" and approve the Receivables as specified in Regulation 73 (4) of BERC (Terms and Conditions for Determination of Tariff) Regulations, 2007 and Regulation 26 of BERC (Multi Year Transmission Tariff and SLDC Charges) Regulations, 2018 for FY 2018-19 and FY 2019-20 respectively. The Hon'ble Commission is hence, requested to additionally approve Rs. 8.34 Crore (Rs. 8.81 Crore - Rs. 0.47 Crore) for FY 2018-19 and FY 2019-20 on account of Interest on Working Capital, along with the associated carrying cost.

4 Financial Claim of BSPTCL in Review Petition

Based on the grounds for review raised by BSPTCL on each of the above-stated issues, the total impact of the Review Petition on the ARR approved for the respective years, on a stand-alone basis, i.e., without considering the consequential impact of the errors on other components in the True up of 2018-19, Annual Performance Review of 2019-20 and ARR of FY 2020-21, is shown in the Table below:

Table 6: Total Impact of Review Petition on a stand-alone basis (Rs. Crore)

Sl.	Particulars	FY 2018-19	FY 2019-20	FY 2020-21	TOTAL
1	Impact of erroneous Debt Equity Ratio	0.88	7.97	19.26	28.11
2	Impact of Escalation in Employee Expenses		7.44	16.64	24.07
3	Impact of erroneous computation Receivables in IoWC	8.81	(0.47)		8.34
	TOTAL	9.69	14.94	35.90	60.53

As seen from the above Table, BSPTCL has worked out the combined impact of **Rs. 60.53 Crore** for all three years. The Hon'ble Commission is requested to approve the revised ARR in the Truing-up of FY 2018-19, Annual Performance Review of FY 2019-20 and ARR of FY 2020-21, as shown in the Table below:

Table 7: Revised ARR to be considered after claim of BSPTCL in Review Petition (Rs. Crore)

Particulars	FY 2018-19	FY 2019-20	FY 2020-21
Net Revenue Requirement approved in Tariff Order dated 20 March 2020	760.84	1032.21	1292.18
Total Impact of Review Petition as claimed by BSPTCL	9.69	14.94	35.90
Revised ARR to be approved as claimed by BSPTCL in Review Petition	770.53	1047.15	1328.08

Therefore, BSPTCL respectfully requests the Hon'ble Commission to approve the revised ARR of Rs. 770.53 Crore for Truing-up of FY 2018-19, Rs. 1047.15 Crore in Annual Performance Review of FY 2019-20 and Rs. 1328.08 Crore in Revised ARR for FY 2020-21 as shown in the Table below.

BSPTCL has also worked out the revised Revenue Surplus with Holding Cost for FY 2018-19 and Annual Transmission Charges for FY 2020-21 based on the claim made in Review Petition, as shown in the following Table:

Table 8: Revenue Surplus with Holding Cost for FY 2018-19 (Rs. Crore)

Sl.	Particulars	As approved by BEREC	As claimed by BSPTCL in Review
1	Aggregate Revenue Requirement for FY 2018-19	760.84	770.53
2	Add: Trued up Gap of FY 2016-17 including carrying cost	85.09	85.09
3	Net Annual Transmission Charges (1+2)	845.93	855.62
4	Less: Transmission charges approved	1194.38	1194.38
5	Revenue Gap / (Surplus) for FY 2018-19 (3-4)	(348.45)	(338.76)
6	Interest for FY 2018-19 [SBI Base Rate 8.7%+3.5% @12.20%] for 6 months	(21.26)	(20.66)
7	Interest for FY 2019-20 [SBI MCLR 8.55%+1.5% @10.05%] for 1 year	(35.02)	(34.05)
8	Interest for FY 2020-21 [(SBI MCLR 8%+1.5%)	(16.55)	(16.09)

Sl.	Particulars	As approved by BERC	As claimed by BSPTCL in Review
	@9.50%] for 6 months		
9	Total Revenue Gap / (Surplus) with holding cost/interest	(421.28)	(409.56)

Table 9: Annual Transmission Charges for FY 2020-21 (Rs. Crore)

Sl.	Particulars	As approved by BERC	As claimed by BSPTCL in Review
1	Aggregate Revenue Requirement approved for FY 2020-21	1292.18	1328.08
2	Add: Trued up Revenue Gap/(Surplus) of FY 2018-19 with holding cost	(421.28)	(409.56)
3	Annual Transmission charges for FY 2020-21 (1+2)	870.90	918.52

Therefore, BSPTCL respectfully requests the Hon'ble Commission to approve Annual Transmission Charges of Rs. 918.52 Crore for FY 2020-21 after adjusting surplus revenue of FY 2018-19 with holding cost.

5 PRAYER

- a) BSPTCL requests the Hon'ble Commission to admit its Review Petition in accordance with Regulation 31 of the BERC (Conduct of Business) Regulations, 2005;
- b) BSPTCL request the Hon'ble Commission to condone delay of 33 days for filing of review petition, owing to outbreak of COVID-19 Pandemic.
- c) Review the Debt Equity Ratio allowed in the impugned Order for FY 2018-19, FY 2019-20 and FY 2020-21 under the head, "error apparent on the face of the record" and allow Debt Equity Ratio in line with the Regulations and as sought by BSPTCL in this Petition;
- d) Review the Employee Expenses allowed in the impugned Order for FY 2019-20 and FY 2020-21 under the head, "error apparent on the face of the record" and allow Employee Expenses after considering CPI Inflation on base norms as specified in the Regulations and as sought by BSPTCL in this Petition;
- e) Review the Receivables allowed in Interest on Working Capital computation in the impugned Order for FY 2018-19 and FY 2019-20 under the head, "error

apparent on the face of the record" and allow Receivables in line with the Regulations and as sought by BSPTCL in this Petition;

- f) BSPTCL requests the Hon'ble Commission to approve the Annual Transmission Charges of **Rs. 918.52 Crore** for FY 2020-21 a after adjusting revenue surplus of FY 2018-19 with holding cost.
- g) Condone any inadvertent omissions, errors, short comings and permit BSPTCL to add/change/modify/alter this filing and make further submissions as may be required at a future date; and
- h) Pass such other and further Orders and any other relief as the Hon'ble Commission deemed fit considering the facts and circumstances of the case

Authorised Signatory

Place: Patna

Date: 06.07.2020