

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

Review Petition on BEREC Tariff Order for
True-Up for FY 2019-20,
Annual Performance Review (APR) for FY 2020-21
And
Determination of ARR and Tariff for FY 2021-22
For
Bihar State Power Transmission Company Limited
(BSPTCL)
Patna



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

___ June 2021

Patna

Filing No.: _____

Case No.: _____

IN THE MATTER OF **Filing of the Review Petition on BERC Tariff Order in Case No. 31 of 2020 for True-up of FY 2019-20, Annual Performance Review (APR) for FY 2020-21, and Aggregate Revenue Requirement (ARR) and Tariff for FY 2021-22 under BERC (Conduct of Business) Regulations, 2005 and Section 94 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 2019-20, Annual Performance Review (APR) of FY 2020-21 and Annual Revenue Requirement (ARR) and determination of Transmission tariff for FY 2021-22 on 24 December 2020. The Petition was filed under Section 62 of Electricity Act, 2003 read with 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. 31 of 2020 on 25.01.2021, after submission of additional data/information and clarifications by BSPTCL vide Letter No. 10 dated 04.02.2021.

The Public Hearing was conducted as scheduled in the Court Room of BERC on 3 March 2021. The Hon'ble Commission issued the Tariff Order on BSPTCL's Petition on 19 March 2021.

BSPTCL is submitting this Review Petition on the Hon'ble Commission's Order dated 19 March 2021, in accordance with Regulation 31 (Review of decisions, directions, and orders) of the BERC (Conduct of Business) Regulations, 2005, as 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 requests the Hon'ble Commission to admit the Review Petition since:

- a) No appeal has been preferred so far;
- b) The Petitioner has identified certain error/s apparent on the face of the record.
- c) The Petitioner has also identified certain parameters/directives, which the Hon'ble Commission is requested to kindly review based on the submission of BSPTCL.

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 Employee Expenses

Regulation 21 (b) and 21.1 of BERC MYT 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 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 MYT Regulations, 2018.

The base norms worked out by the Hon'ble Commission in the 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 MYT 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 Orders dated 20 March 2020 and 19 March 2021, the Hon'ble Commission has adopted a different approach than that specified in the BERC MYT Regulations, 2018. 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 to FY 2021-22, without applying CPI Index, thereby approving employee expenses, which are not in accordance with Regulation 21.1 of BERC MYT Regulations, 2018. The Hon'ble Commission had stated in Tariff Order

dated 20 March 2020 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 in APR for FY 2019-20. The Hon'ble Commission has re-iterated the same approach while approving the True-up of FY 2019-20 in Tariff Order dated 19 March 2021. The Hon'ble Commission has considered the same norms again without any escalation for computation of employee expenses in APR for FY 2020-21 and in ARR for FY 2021-22 vide Tariff Order dated 19 March 2021. The relevant extracts of the impugned Tariff Order dated 19 March 2021 are as follows:

“Further, the Commission in its previous Tariff Order dated 20 March, 2020 has observed that there was an inadvertent error in serial number 2&3 in the Table 7.15 of the MYT Order dated 15 February, 2019 wherein normative number of personnel per Ckt/km and number of personal per substation have been inflated on account of inflation while calculating the Employee expenses for the Control Period. Therefore, the Commission in its previous Tariff Order dated 20 March, 2020 has clarified that the base norms once fixed for No. of personnel per Ckt/Km & No. of personnel per substation shall not be escalated. Only norms towards annual expenses per personnel need to be escalated with CPI index as per Regulation 21(g) of BEREC (Multi Year Transmission Tariff and SLDC charges) Regulations 2018. Accordingly, the Commission has rectified the aforesaid error in previous Tariff Order as shown in the Table below.

Table 5.19: Employee expenses considered for FY 2019-20 (RE)

| Sl. No. | Particulars | Base Norms | Approved for FY 2019-20 in Tariff Order 15.02.2019 | Projected by BSPTCL for FY 2019-20 (RE) | Considered in review for FY 2019-20 (RE) |
|---------|--|------------|--|---|--|
| 1 | CPI inflation | | 4.28% | 4.22% | 4.22% |
| 2 | Norms-Number of personnel per Ckt km | 0.0822 | 0.086 | 0.085 | 0.08220 |
| 3 | Norms-Number of personal per substation | 6.6427 | 6.927 | 6.923 | 6.6427 |
| 4 | Transmission line length in Ckt Km | | 15,500 | 15,772 | 15,772 |
| 5 | No of substations | | 146 | 146 | 146 |
| 6 | Norms-Annual expenses per personnel (Rs. lakh) | 7.461 | 7.7802 | 7.776 | 7.7759 |
| 7 | Employee cost (No. of personnel per Ckt Km) | | 103.37 | 104.80 | 100.81 |

| <i>Sl. No.</i> | <i>Particulars</i> | <i>Base Norms</i> | <i>Approved for FY 2019-20 in Tariff Order 15.02.2019</i> | <i>Projected by BSPTCL for FY 2019-20 (RE)</i> | <i>Considered in review for FY 2019-20 (RE)</i> |
|----------------|--|-------------------|---|--|---|
| | <i>(2*4*6)/100 (Rs. Crore)</i> | | | | |
| 8 | <i>Employee cost (No. of personnel per substation) (3*5*6)/100 (Rs. Crore)</i> | | 78.69 | 78.59 | 75.41 |
| 9 | <i>Total Employee cost for the year (7+8)</i> | | 182.06 | 183.39 | 176.22 |

BSPTCL submits that the approach adopted by the Hon'ble Commission for computation of employee expenses is not appropriate. On the one hand, the Hon'ble Commission has considered the CPI inflation 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, which are also the base norms, 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 shall not be escalated.

Regulation 21.1 of BERC MYT Regulations, 2018 provides for computation of Employee Expenses as per approved norms 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 has 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 MYT Regulations, 2018.

The Hon'ble Commission has therefore, erred in computation of employee expenses for FY 2019-20 to FY 2021-22 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 already raised this issue of computation of Employee expenses in Review Petition vide Case No. 21 of 2020 filed on 06 July 2020 against Tariff Order dated 20 March 2020. BSPTCL in the Review Petition filed on 06 July 2020 has prayed for similar relief as prayed in this Petition for computation of normative employee expenses in APR for FY 2019-20 and ARR for FY 2020-21. However, the Hon'ble Commission is yet to issue Order on the Review Petition filed by BSPTCL vide Case No. 21 of 2020. BSPTCL has continued to pray for similar relief on normative employee expenses computation in this Petition as well.

BSPTCL respectfully requests the Hon'ble Commission to review the Employee expenses of FY 2019-20 to FY 2021-22 as approved in Tariff Order dated 19 March 2021, 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 MYT Regulations, 2018. The

Hon'ble Commission is hence, requested to allow the impact of the above error along with the associated carrying cost for the respective years.

2 Transmission Loss

Regulation 6.1 of BERC MYT Regulations, 2018 provides for the following with regards to specifying trajectory for certain variables such as transmission losses:

"6.1 The Commission shall stipulate a trajectory while approving the Business Plan, for certain variables having regard to the reorganization, restructuring and development of the electricity industry in the State:

Provided that the variables for which a trajectory may be stipulated shall include, but are not limited to, Capitalization Schedule (Timely completion of Project as per original award without cost overrun and Time overrun), Operation & Maintenance expense norms, transmission system availability, and transmission losses."

As per the above extract, the Hon'ble Commission shall stipulate a trajectory for transmission loss while approving the Business Plan for the Control Period. The Hon'ble Commission accordingly approved the transmission loss of BSPTCL at 3.92% for all the three years, i.e., FY 2019-20 to FY 2021-22 at the time of approval of MYT Order dated 15 February 2019.

However, vide Tariff Order dated 20 March 2020, the Hon'ble Commission revised the transmission loss for FY 2020-21 and approved the transmission loss at 3.00% based on the fact that Special Energy Meters (SEM) have been installed at almost all the interface points under 'SAMAST' and hence, BSPTCL is in the position to measure actual transmission loss. Further, measured transmission loss for April 2019 to September 2019 has been lower than 3.00% as submitted by BSPTCL. The Hon'ble Commission continued to approve transmission loss of 3.00% in APR of FY 2020-21 and ARR of FY 2021-22 vide Tariff Order dated 19 March 2021.

It is submitted that meters have been installed by BSPTCL in all 142 GSSs at the LV side of the transformers. Out of the total 142 GSSs, meters have been installed at 33 kV side feeders of only 80 GSSs. However, installation of energy meters at the 33 kV side feeders for the remaining 62 GSSs is yet to be completed. BSPTCL is in the process of procurement of these meters at 62 GSSs and therefore, the transmission loss submitted by BSPTCL for April 2020 to September 2020 in its Petition still has some margin of error and cannot be termed as exact transmission loss of BSPTCL. Once the balance meters are installed, BSPTCL will be in a position to provide the

exact transmission loss to the Hon'ble Commission. The Commission is therefore, requested not to consider the transmission loss of April 2020 to September 2020 submitted by BSPTCL as a benchmark for approving trajectory for future years.

Further, BSPTCL submits that there is no provision in BERC MYT Regulations, 2018 for revision of approved trajectory such as the transmission loss in the middle of the Control Period once it has approved the loss levels in MYT Order.

Regulation 38.1 of BERC MYT Regulations, 2018 provides for incentives to be allowed based on the over achievement of transmission loss. The relevant extract is as follows

"38.1 The Transmission Licensee shall be entitled to incentive/disincentive on account of deviation from target availability as well as transmission Loss target set by commission.

However, the incentive/disincentive on account of deviation from transmission loss target shall be +/- 0.01% of ARR for deviation of 0.01% of transmission loss limited to +/- 2% of the ARR.

The transmission charges referred to in Regulation 33 of these Regulations are inclusive of such incentives and disincentives on account of availability of system."

As per the above provisions, BSPTCL can earn incentive on transmission loss with respect to the above provision only when the transmission loss trajectory is kept same as approved in MYT Order and BSPTCL through its efficient operation of network, achieve a loss lower than the approved transmission loss during the Control Period. If the Hon'ble Commission adopts a methodology as adopted in Tariff Order dated 19 March 2021, wherein it revises the approved transmission loss based on the actual transmission loss achieved by BSPTCL, BSPTCL will never be able to claim incentive on account of transmission losses.

The Hon'ble Commission has revised the transmission loss for FY 2020-21 and FY 2021-22 based on the actual transmission loss from April 2020 to September 2020. Due to such mechanism, BSPTCL will be in no position to claim the incentive on transmission loss and the above Regulation 38.1 will prove to be futile.

Further, Regulation 11.2 (e) of BERC MYT Regulations, 2018 provides for the following with regards to performance targets.

11...

...(e) Performance Targets: A set of targets proposed for controllable items such as availability of transmission system, transmission losses, transformer failure rate, and any other parameters for quality of supply. The targets shall be consistent with the Capital Investment Plan proposed by the Transmission Licensee;"

As per the above provisions, the transmission loss approved by the Hon'ble Commission shall be consistent with the Capital Investment Plan approved by the Hon'ble Commission. The Hon'ble Commission has not approved any Capital Expenditure during the Control Period specifically to reduce the Transmission loss of BSPTCL in a phasing manner. Hence, the reduction of transmission loss for FY 2020-21 and FY 2021-22 to 3.00% by the Hon'ble Commission is not in line with the above provision as there is no additional Capital expenditure approved by the Hon'ble Commission over and above claimed by BSPTCL for reduction of transmission loss during the Control Period.

BSPTCL would like to submit that though transmission loss is termed as a controllable factor in the BERC MYT Regulations, 2018, BSPTCL has very less control over the transmission loss, which is recorded at the end of the year. BSPTCL has been making continuous efforts to bring down the transmission loss at desired levels. However, the Hon'ble Commission should take cognizance of the fact that significant portion of the transmission loss is determined by injection of generation capacity on real time basis, i.e., the supply side and drawal by Distribution Licensees/consumers on real time basis, i.e., the demand side. Any mismatch with respect to the supply side and demand side at every time block interval also affects the transmission loss significantly. The Hon'ble Commission is therefore requested to not revised the transmission loss trajectory for FY 2020-21 and FY 2021-22 based on the actual transmission loss incurred in the past. The Hon'ble Commission is requested to retain the target transmission loss of 3.92% as approved in MYT Order dated 15 February 2019.

Based on the above submissions, BSPTCL request the Hon'ble Commission to kindly retain the transmission loss at 3.92% for FY 2020-21 and FY 2021-22 as approved in MYT Order dated 15 February 2019.

3 Directive to BSPTCL

The Hon'ble Commission has issued the following directive under new directives vide Tariff Order dated 19 March 2021.

“iii) Directive: Online platform for capital project monitoring.

BSPTCL should develop a web-based platform/portal such that it encompasses features tracking the various schemes being carried out by BSPTCL in terms of cost, time, scope, actual progress and deviations. BSPTCL shall update all relevant information on the web based portal on regular basis and provide access of the same to the office of the Commission. This shall enable the Commission to monitor real time data of capital projects and suggest corrective actions as and when needed.”

BSPTCL respectfully submits that all the ongoing as well as upcoming projects are executed as per the turnkey contracts entered into by BSPTCL with the respective contractors. While executing the works, BSPTCL encounters various issues such as difficulty in obtaining Right of Way (RoW) permissions, delay in procurement of land, etc. Under such circumstances, it is expected that there would be some amount of delay in execution of the projects. Since, these factors are beyond the control of BSPTCL, it cannot be held responsible for such delays in execution of the works. The Hon'ble Commission has also considered such issues in the past and acknowledged the same based on the submission of BSPTCL.

However, to ensure that there is no delay on behalf of BSPTCL, it carries out internal monitoring of all the schemes/projects on a monthly basis. Through this monitoring process, challenges such as operational difficulties/manpower issues/availability of stock, etc., are tackled so that work is executed as planned. The presentation/minutes of meeting of the internal monitoring is submitted to top management of BSPTCL and thereafter, the same is shared with the State Government.

Further, all the projects that are carried out by BSPTCL are monitored on a regular basis by various statutory authorities like the Central Electricity Authority (CEA) , Bihar Government etc. The works are monitored on various parameters such as phasing, delay in execution, change in scope, etc., and based on the recommendations of these agencies/authorities, BSPTCL takes various steps/measures for corrective action. BSPTCL also provides regular updates on all such projects to these statutory authorities.

As per the defined procedure and as directed by the Hon'ble Commission in previous Tariff Orders, BSPTCL has been providing the quarterly updates on the regular progress of all the works being executed by BSPTCL along with the status of works and reasons for delay in execution, if any.

At the time of final approval of capital expenditure and capitalisation in True-up, the Hon'ble Commission as per regular practice, has been directing BSPTCL to provide justification for works/schemes, which are observed to have time/cost overrun after completion. BSPTCL has been providing the justification for each and every work where there is time/cost overrun as per observations of the Hon'ble Commission. The Hon'ble Commission has accordingly been approving capitalisation based on the justification provided, being within or beyond the control of BSPTCL.

Regulation 25.1 of BERC MYT Regulations, 2018 specifies as under:

"25.1 Interest during Construction (IDC)

(a) Interest during construction shall be computed corresponding to the loan from the date of infusion of debt fund, and after taking into account the prudent phasing of funds upto Scheduled Date of Commercial operation (SCOD).

(b) In case of additional costs on account of IDC due to delay in achieving the SCOD, the Licensee shall be required to furnish detailed justifications with supporting documents for such delay including prudent phasing of funds.

Provided that if the delay is not attributable to the Licensee and is due to uncontrollable factors as specified in these regulations, IDC may be allowed after due prudence check.

Provided further that only IDC on actual loan may be allowed beyond the SCOD to the extent, the delay is found beyond the control of licensee after due prudence and taking into account prudent phasing of funds."

As per the above provisions, IDC shall be allowed by the Hon'ble Commission only after prudence check of whether the delay in execution of projects was on account of factors attributable to BSPTCL or on account of uncontrollable factors. Accordingly, the Hon'ble Commission has the right to allow/disallow/partially allow IDC. Such prudence check can be carried out only when the project is completed, and the final cost is submitted for approval. To ensure that the project is executed in a timely manner, the Hon'ble Commission may not intervene in the process of execution of the projects by BSPTCL, which is within the domain of BSPTCL.

The Hon'ble Commission will appreciate that approaching the Hon'ble Commission for every single delay of each project will result in BSPTCL taking multiple approvals from the Hon'ble Commission for the same project/schemes. This will make the entire process very lengthy and cumbersome, and result in BSPTCL spending more time of regulatory approvals, when it would be better to focus on completing the project at the earliest. This may lead to further delay in execution of the

projects/schemes, which may adversely affect the overall operations of BSPTCL. BSPTCL respectfully submits that the Hon'ble Commission allow BSPTCL to manage its business, and refrain from micro-managing the operations of BSPTCL.

However, the benefit of this online web-based portal shall still serve the same purpose of providing quarterly updates on the progress of capital works to the Hon'ble Commission, as it is being done currently on a regular basis.

BSPTCL respectfully submits that the above directive may also lead to dual control over the project activity. Such mechanism may result in creating confusion among employees of BSPTCL, who are executing the works at the field level. Therefore, it is essential that a single entity, i.e., the management of BSPTCL have complete control over the project activities of BSPTCL.

As far as suggesting corrective actions is concerned, the Hon'ble Commission is always welcome to give its suggestions/recommendations based on the quarterly status report on capital works submitted by BSPTCL. Hence, development of web-based portal is not needed for the Hon'ble Commission to suggest any corrective actions. However, BSPTCL would like to submit that the works are executed as per the terms and conditions specified in the contract signed by BSPTCL with its contractors and common business practices and hence, the corrective actions suggested by the Hon'ble Commission may not necessarily coincide with the contractual obligations.

BSPTCL hence, requests the Hon'ble Commission to kindly exempt BSPTCL from the above directive of developing a web-based portal for project monitoring activities and providing real time access to the Hon'ble Commission to monitor capital projects and suggest corrective actions.

4 Deferment of Timelines for Compliance to Directives

The Hon'ble Commission vide Tariff Order dated 19 March 2021 had directed BSPTCL to comply with the directions specified in Compliance to Directions chapter of the Tariff Order. BSPTCL had to comply to the directions issued by the Hon'ble Commission as per the time frame stipulated in the Tariff Order.

The following are the list of documents that are to be submitted by BSPTCL as compliance to directive and the specified timelines as mentioned in Tariff Order dated 19 March 2021:

| Sr. No. | Particulars | Timelines |
|----------------|--|------------------|
| 1 | Monthly Energy Audit Report | Quarterly |
| 2 | Status of Preparation of Asset Register | Quarterly |
| 3 | Power Map of Bihar | 31 May 2021 |
| 4 | Details of IDC and IEDC for FY 2020-21 | Tariff Petition |
| 5 | Separate Accounting Statement for BSPTCL and SLDC | Tariff Petition |
| 6 | NIT wise list of projects, estimated cost, approved cost, amended cost, schedule capital expenditure and capitalization and schedule and actual date of completion | 31 July 2021 |
| 7 | Average as well as Peak Loading of various 220 kV, 132 kV and 33 kV sub-stations | Quarterly |
| 8 | Status report of Assets that are capitalized directly without Commission's approval till 19 March 2021 | 30 Sept 2021 |
| 9 | Regulatory Accounts as per BERC (Power Regulatory Accounting) Regulations, 2018 for BSPTCL and SLDC | Tariff Petition |

As stated earlier, due to lack of manpower in the head office and at the field level, BSPTCL is not in a position to comply with all such directions within the time frame specified in the Tariff Order. In view of the current situation, partial lockdown and restrictions enforced by the State Government, BSPTCL requests the Hon'ble Commission to grant relaxation in the timelines stipulated in the Tariff Order for complying to such directives. It is prayed to the Hon'ble Commission to revise the timelines for submission of compliance report of the directives given in Tariff Order dated 19 March 2021 as below:-

| Sr. No. | Particulars | Approved Timelines | Revised timelines |
|----------------|---|---------------------------|--------------------------|
| 1 | Monthly Energy Audit Report | Quarterly | 30 Sept. 2021 |
| 2 | Status of Preparation of Asset Register | Quarterly | 30 Sept. 2021 |
| 3 | Power Map of Bihar | 31 May 2021 | Next Tariff Petition |
| 4 | NIT wise list of projects, estimated cost, approved cost, amended cost, schedule capital expenditure and capitalization and | 31 July 2021 | 30 Sept. 2021 |

| Sr. No. | Particulars | Approved Timelines | Revised timelines |
|----------------|--|---------------------------|--------------------------|
| | schedule and actual date of completion | | |
| 5 | Average as well as Peak Loading of various 220 kV, 132 kV and 33 kV sub-stations | Quarterly | 30 Sept. 2021 |
| 6 | Status report of Assets that are capitalized directly without Commission's approval till 19 March 2021 | 30 Sept 2021 | Next Tariff Petition |

BSPTCL requests the Hon'ble Commission to approve the revised timelines as specified in the above Table for all such directives as mentioned in Tariff Order dated 19 March 2021.

5 Condonation of Delay in filing of Review Petition

Due to unprecedented situation of second wave of COVID-19 pandemic which hit the State in March/April 2021 and subsequent lockdown/restrictions imposed by the State Government, functioning of BSPTCL was severely affected during this period.

The lockdown/restrictions by State Government were in effect till third week of June 2021. BSPTCL during this period was not able to work with full work force which had led to delays in meeting all timelines including the timeline for filing of Review Petition on Tariff Order dated 19th March 2021. It was observed that significant number of personnel of BSPTCL were also infected due to COVID-19 and internal processes had also come to a standstill.

BSPTCL, considering the situation in hand had requested Hon'ble Commission to give time extension of 45 days from the last day of the time limit specified for filing of Review Petition vide letter dated 18.05.2021_.

BSPTCL hence requests the Hon'ble Commission to kindly condone the delay of 45 days in filing of this Review Petition on Tariff Order dated 19th March 2021 and accordingly take this Review Petition on record for further processing.

6 PRAYER

- a) BSPTCL requests the Hon'ble Commission to admit this Review Petition in accordance with Regulation 31 of the BERC (Conduct of Business) Regulations, 2005;
- b) To condone the delay in filing of Review Petition on Tariff Order for FY 2021-22 dated 19th March 2021, due to the work being affected by lockdown in the State for the last three months and due to several restrictions in operations of BSPTCL.
- c) Review the Employee Expenses allowed in the impugned Order for FY 2019-20 to FY 2021-22 under the head, "*error apparent on the face of the record*" and allow Employee Expenses after considering CPI Inflation on all the base norms as specified in the Regulations and as sought by BSPTCL in this Petition;
- d) BSPTCL request the Hon'ble Commission to retain the transmission loss of 3.92% for FY 2020-21 and FY 2021-22 as approved in MYT Order dated 15 February 2019;
- e) Hon'ble Commission is requested to provide relaxation in timelines for submission of various directive as specified in the Regulations and Tariff Orders as mentioned in this Petition;
- f) Hon'ble Commission is requested to exempt BSPTCL from one of its directives of developing a web-based portal for monitoring, updating and tracking all relevant information of project related activities in terms of cost, time, scope, actual progress, deviations and providing real time access to the Hon'ble Commission for suggesting corrective actions;
- 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: _____