RAJASTHAN ELECTRICITY REGULATORY COMMISSION, JAIPUR

Petition No. RERC 1928/2021, 1940/2021, 1974/2021, 1955/2021, 1942/2021, 1975/2021

Petitions for review of Commission's Order dated 27.01.2021 passed in the Petition No. 1599/2020, 1600/2020, 1613/2020 in the matter of true up for FY 2018-19 and petitions for review of Commission's Order dated 07.09.2021 passed in the Petition No. 1844/2020, 1862/2020, 1847/2020 in the matter of true up for FY 2019-20 of Jaipur Vidyut Vitran Nigam Ltd. (JVVNL), Ajmer Vidyut Vitran Nigam Ltd. (AVVNL) and Jodhpur Vidyut Vitran Nigam Ltd. (JdVVNL).

Coram: **Dr. B. N. Sharma, Chairman**

Shri S.C. Dinkar, Member

Petitioners:

Jaipur Vidyut Vitran Nigam Ltd., Jaipur (Petition No. RERC 1928/2021 & 1955/2021)

Ajmer Vidyut Vitran Nigam Ltd., Ajmer (Petition No. RERC 1940/2021 & 1942/2021)

Jodhpur Vidyut Vitran Nigam Ltd., Jodhpur (Petition No. RERC 1974/2021 & 1975/2021)

Date of Hearing: 02.12.2021, 13.01.2022, 24.02.2022, 04.05.2022

Date of Order: **24.05.2022**

ORDER

Background

1.1 JVVNL, AVVNL and JDVVNL (hereinafter referred as 'Discoms' or 'Petitioners'), have filed these petition's on 25.08.2021, 07.10.2021 & 28.12.2021 respectively for FY 2018-19 and 02.11.2021, 12.10.2021 & 28.12.2021 respectively for FY 2019-

20 under Section 94(1)(f) of the Electricity Act, 2003 for review of Commission's order dated 27.01.2021 and 07.09.2021 in the matter of Annual Performance Review (True-Up) for FY 2018-19 and FY 2019-20 respectively.

1.2 As issues arising in all the petitions are common (except few items) for all three Discoms and the Stakeholders have also made common submissions on all the petitions in the hearings held in the matter, the Commission, therefore, has decided to consider all the petitions together for FY 2018-19 and FY 2019-20 and dispose them through this common order.

1.3 The matter was heard on 02.12.2021, 13.01.2022, 24.02.2022 and 04.05.2022. Sh. Bipin Gupta, Authorized representative appeared for Petitioner.

1.4 During the course of hearing on dated 02.12.2021, Commission directed the JVVNL & AVVNL to implead the objectors of main petitions as party in the present petitions and amend the cause title.

1.5 Accordingly, the JVVNL and AVVNL impleaded the objectors of main petitions as party in the present petitions. Since, JdVVNL has filed the petition after aforesaid hearing, JdVVNL has filed the petition after impleading the objector of main petitions as party in the present petitions.

1.6 Total 6 numbers of stakeholders were impleaded, out of which, comments/suggestions were received from 4 numbers of stakeholders on all petitions for FY 2018-19 and FY 2019-20. The list of stakeholders impleaded and who have submitted their comments is enclosed at **Annexure-A and B** respectively**.**

1.7 The list of stakeholders who have made submissions during the hearing through video conferencing is enclosed at **Annexure-C.**

1.8 During the course of public hearing held on 04.05.2022 through video conferencing stakeholders submitted that issues taken up in the review have already been decided by the Commission after due deliberation and examination, Discoms have not brought out any error or mistake on the face of record, Therefore, request of the Discoms for review in the matter, be rejected and dismissed by the Commission.

1.9 Commission has considered the submission of Petitioner and Respondent under section 94 (1) (f) of the Electricity Act, 2003 read with Order No. XL VII Rule 1 of Civil Procedure Code.

1.10 Discoms have filed the petition seeking review of the aforesaid orders on the following issues during FY 2018-19 and FY 2019-20; Discoms in their petitions, rejoinder and during hearing have submitted as under:

Issue No 1: Rate at which power purchase cost is being disallowed against higher T&D losses over and above the normative norms for FY 2018-19 and FY 2019-20

1. Discoms submitted that in respect of disallowance of the power purchase quantum against distribution losses higher than those approved by the Commission in its ARR & Tariff order, Discoms are bound to meet their incremental energy demand by procuring power at a variable rate according to the merit order dispatch principle from long term tied up sources approved by the Commission. Discoms have entered into long-term PPAs with generators for the purpose of energy security in the State and in order to ensure 24X7 quality supply to consumers. In terms of the PPAs, the Discoms are bound to bear capacity/ fixed charges of these long-term generating sources, based on the availability declared by these generating stations. This is a fixed cost in nature which shall be borne by the Discoms irrespective of quantum of power procured.

2. Discoms submitted that such fixed charges payable towards generating stations should be included in the Power purchase costs of the Discoms in line with Transmission cost (another fixed cost in nature) which is independent of quantum of power procured and depends on tied up capacity only.

3. Disallowing the power purchase cost by multiplying average power procurement cost (APPC) with the quantum of disallowed energy is detrimental to the Discoms as the burden of capacity charges are inevitable.

4. Thus, Discoms requested to consider the average variable cost of power purchase (after excluding costs of Must Run stations) instead of APPC if such an adjustment is required to be passed on into the ARR due to increased distribution losses and the disallowance in power purchase cost needs to be re-examined.

Issue No 2: Disallowance of depreciation cost to the extent of 5% during FY 2018-19 and 10% during FY 2019-20 due to non-submission of Fixed Asset Register (FAR)

5. Discoms have submitted that they have filed the Fixed Assets Registers before the Commission.

6. Discoms further submitted that preparing fixed asset register is a cumbersome task and requires time to complete the processes which includes the physical verification of the assets, noting all the details of the assets, determination of historical as well as present cost of assets, etc. Further, owing to the complexity of the business, the assets owned by the Discoms also vary and include land, Buildings, Plant and Machinery, Power Distribution System of electrical network of 33KV lines, 11KV lines, Low Tension lines, Sub-Stations, Vehicles, Furniture & Fixtures and Office Equipment distributed across the huge geographic area of operation of the company.

7. Thus, Discoms requested to consider the submission of Fixed Asset Register for the period and revoke the penalty imposed on the Discoms through disallowance of depreciation cost. The Discoms have also requested a time relaxation for submission of fixed assets register for the ensuing years.

<u>Issue No 3: Disallowance of O&M expenses of Discom's for area under Distribution Franchisee (DF) for FY 2018-19 and FY 2019-20</u>

8. The Discoms submitted that Commission in para 3.24 and 3.28 of True-up order for FY 2018-19 and FY 2019-20 respectively stated that:

   "As the O&M expenses of distribution area of DF are borne by the distribution franchisee (DF), therefore the normative O&M expenses have been calculated duly deducting the sales of distribution franchisee from the total sales"

9. The Discoms submitted that Distribution franchisee is acting on behalf of the Discoms to serve the areas of supply. The Hon'ble commission in para 3.113 and 3.86 of True-up order for FY 2018-19 and 2019-20 respectively has also acknowledged this fact and has stated that:

   "……..As the franchisee is acting on behalf of the licensee, the Discom should ensure that franchisee functions in an efficient manner and also make adequate investment so that impact of working of franchisee should be reflected in overall efficiency improvement and Discoms are able to achieve target loss level based on end consumer sale."

10. Discoms submitted that this internal arrangement of serving these areas does not alter the situation that the employees working in the Discoms are still in the system and administrative and general expenses are still being borne by the Discoms. Discoms agrees to the fact that due to the award of distribution franchisee, repair and maintenance expenses incurred by the Discoms may have been saved.

11. Discoms further submitted that while computing the base price of Average Billing Rate to grant the DF and performing cost-benefit analysis of awarding the DF, the Discoms made their calculation based on the fact that O&M expenses would be recovered based on normative sales as per the RERC Regulations.

12. Discoms submitted that the sales made by the distribution licensee includes the units sold to DF and thus, the O&M expenses should be allowed on total sales made by Discom in its area.

13. Discoms further submitted that even though the area is provided to the Distribution Franchisee, it does not mean that the employees from the franchisee area are laid off. Since, the Discom had to transfer the employees to other locations, the employee expenses of the overall Discoms is the same and there is no reduction in it due to distribution franchisee.

14. With respect to A&G expenses, the major heads under this are Rent, Rates & Taxes, Security Service Charges, Telephone, Telex & EPABX Expenses, Hiring of Vehicle, Vehicle Running Expenses, Power Expenses for Administration, etc. Discoms submitted that expenses are of ongoing in nature and Discoms is still incurring these expenses. Disallowing such expenses is adding to the already prevailing financial problems which are being further exacerbated due to disallowance of such legitimate expenses.

15. With respect to R&M expenses, the distribution franchisee was given the responsibility to carry out the repair and maintenance under the agreement and thus, the Commission may allow only the employee as well as A&G expenses.

16. Thus, Discoms requested to consider employee cost and A&G expenses after considering the units sold to the franchisee. Further, repair and maintenance of the assets lies with the franchisee, the same should be deducted while approving O&M expenses to the Discoms.

Issue No 4: Computing distribution loss at consumer end of distribution franchisee area to Discoms for FY 2018-19 and FY 2019-20

17. The Discoms submitted that Commission in para 3.113 and 3.86 of True-up order for FY 2018-19 and FY 2019-20 respectively stated that:

"The Commission has noted that it has prescribed the target losses in its ARR Order based on sales to end consumers and any consideration of sales to franchisee at input level will show reduction in losses whereas

revenue accounted by the Discom already stands reduced due to lower rate at input level. As the franchisee is acting on behalf of the licensee, the Discom should ensure that franchisee functions in an efficient manner and also make adequate investment so that impact of working of franchisee should be reflected in overall efficiency improvement and Discoms are able to achieve target loss level based on end consumer sale."

18. Discoms submitted that the prime motive behind transferring any area under distribution franchise is to improve efficiencies, augment and upgrade infrastructure, reduce distribution losses and improve quality of supply in the franchisee area thereby improving consumer service overall.

19. Discoms further submitted that considering the energy sale in distribution franchisee area as part of Discom's sale and that too at consumer level, nullifies the importance of the whole process.

20. Thus, the Discoms requested to consider the sales to distribution franchisee at input level not at consumer level while calculating the distribution loss.

<u>Issue No 5: Methodology of interest on regulatory assets for FY 2018-19</u>

21. The Discoms submitted that clause 92 of RERC Tariff Regulations, 2014 reads as under:

    "92. *Regulatory Asset*
    Regulatory Asset shall be created only under exceptional circumstances: Provided that as and when created, the Regulatory Asset shall be amortised in such a manner that it is co-terminus with the MYT Control Period as far as possible and carrying cost shall be allowed to be added to the revenue requirement of each year till such time the Regulatory Asset is fully amortised."

22. Further, as per clause 21 of RERC Tariff Regulations, 2014,

    "..*(6) The interest on loan shall be calculated on the normative average loan of the year by applying the weighted average rate of interest."*

23. Discoms submitted that while approving the interest on approved unfunded gap for a particular year, the Commission has been allowing the interest on unfunded gap from next financial year.

24. Due to the current methodology, the interest on unfunded gap for the Truing up year is not being accounted for and the same is being borne by the Discom. In existing methodology, the Commission has been computing the interest allowed for a particular financial year as opening balance of regulatory assets multiply by rate of interest whereas for other long term loans, the interest is being computed based on the average of loan and the same has been proposed.

25. Thus, the Discoms requested to approve the interest on regulatory assets for the FY 2018-19 while issuing revised true-up order and adopt the same methodology while truing up for the ensuing years.

Issue No 6: Approval of long-term loans considering normative "grant' instead of actual "equity" for FY 2019-20

26. The Discoms submitted that Commission, while approving the addition of long term loans during the FY 2019-20, taken into consideration the normative grant as receivable from GoI and GoR under central sponsored schemes and state sponsored schemes respectively.

27. Discoms submitted that similar methodology is not applicable while approving the capital expenditure loans pertaining to state sponsored schemes. The Government of Rajasthan, while issuing "equity" for a particular financial year has clearly mentioned the term "equity" being released with respect to capital expenditure incurred for that financial year.

28. Thus, Discoms submitted that the methodology of approving long-term loans while approving capital expenditure plan needs to be reassessed and to approve as per the methodology approved in True up orders for FY 2018-19 and before.

Issue No 7: Non-inclusion of interest on UDAY loan in interest and finance charges for FY 2019-20

29. The Discoms submitted that Commission in its ARR & Tariff order for the FY 2019-20 dated 06.02.2020 has approved interest on UDAY loans to be included for five years beginning from FY 2019-20 relevant excerpt of which is being submitted as below for ready reference:

"*…In view of submission of the Discoms and to avoid tariff shock, the Commission has considered the payment of the accrued interest in five yearly installments and accordingly considered the 1/5th of the amount for FY 2019-20…*"

30. The Discoms requested to reassess the interest and finance charges after including interest on UDAY loans

1.11 Stakeholder's Comments/suggestions and Discom's Response:

1. Review petition is not maintainable

Stakeholder's Comments/suggestions

(i) It was submitted that as per Regulation 34 of RERC (Transaction of Business) Regulations, 2021, any person aggrieved on order passed by the Commission may apply for a review within 30 days from the date of passing of such order. The instant Review petitions have been filed after 30 days of issuance of Orders thus these are time barred and non admissible/maintainable.

(ii) It was submitted that the Discoms in their present petitions have not brought out any cause (s) for the present review petitions as per Rule-1 of CPC and section 94 (1) (f) of the Electricity Act, 2003. Hence, these not maintainable.

Petitioner's Response

(i) Discoms referred to Hon'ble Supreme Court Order dated 10.01.2022 and submitted that in March 2020, the Court took Suo Motu cognizance of the difficulties that might be faced by the litigants in filing petitions/ applications/ suits/ appeals/ all other quasi proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central and/or State) due to the outbreak of the COVID19 pandemic. Accordingly, the review petitions have been filed within time period allowed by the Hon'ble Supreme Court.

(ii) Discoms submitted that after going through True Up order for FY 2018-19 and FY 2019-20, it was felt that some methodologies adopted by the Commission to arrive at the components as detailed out in the review petition need to be revisited. Discoms submitted that review petitions have been necessitated on account of the fact that the order issued on 27.01.2021 and 07.09.2021, record the averments/ observations in a manner which are not prudent as per the Discoms and hence, the review petition have been filed.

2. **Disallowance of depreciation: due to non-submission of Fixed Asset Register (FAR)**

Stakeholder's Comments/suggestions

(i) In was submitted that Commission in the Order observed that Discoms have not complied completely with Commission directives related to Fixed Asser Register (FAR). From this it is very clear that FAR submitted has not been in accordance the requirement of Regulations.

(ii) It was submitted that Commission already directed if the Discoms fail to submit the Fixed Asser Register with next tariff filing the Commission may consider to increase the percentage of deduction. In view of position submitted above, deduction made by the Commission has been as per order already passed on 6.2.2020 and thus there has been no error or mistake.

Petitioner's Response

Discoms submitted that the process of preparation of fixed assets register has been taken up as per the orders of the Commission. Requisite information on location wise duly physically verified quantity of assets has been collected and work of valuation is under process for the said matter which was delayed due to the outbreak of COVID-19 pandemic.

3. **Disallowance of O&M expenses of Discoms for area under Distribution Franchise**

Stakeholder's Comments/suggestions

(i) It was submitted that Employees cost, R&M expenses and Administrative & General expenses for the area of franchisee is not being borne by Discoms instead it is being borne by the distribute franchisee.

(ii) It was submitted that Commission in the order dated 27.1.2021 stated that as O&M expenses of distribution area are borne by the distribution franchisee therefore, the normative O&M expenses should be calculated duly deducting the sales of distribution franchisee and accordingly the same have been allowed. In view of above the request of the Discoms for any review in respect of O&M expenses is not maintainable as such the same may be rejected and dismissed.

Petitioner's Response

(i) Discoms submitted that even though the area is provided to the Distribution Franchisee, it does not mean that the employees of Discoms from the franchisee area are laid off. Since, the Discoms had to transfer the employees to other locations, the employee expenses of the overall Discoms are the same and there is no reduction in them due to distribution franchisee. A separate cell has been formed by Jaipur and Jodhpur Discoms in order to regularly monitor the operations of the DF. The DF cell is headed by a Chief Engineer, further comprising of staff including a Superintending Engineer, Executive Engineer, Assistant Engineer, Junior Engineer and other subordinates.

Further, with respect to A&G expenses, Discoms submitted that major heads under this are Rent, Rates & Taxes, Security Service Charges, Telephone, Telex & EPABX Expenses, Hiring of Vehicle, Vehicle Running Expenses, Power Expenses for Administration, etc. these expenses are of ongoing in nature and Discoms are still incurring these expenses. Disallowing such expenses is adding to the already prevailing financial problems which are being further exacerbated due to disallowance of such legitimate expenses.

With respect to R&M expenses, Discoms submitted that the distribution franchisee was given the responsibility to carry out the repair and maintenance under the agreement.

Discoms requested to allow the employee cost and A&G expenses after considering the units sold to the franchisee. Further, since the repair and maintenance of the assets lies with the franchisee, Discoms requested that same may be deducted while approving O&M expenses to the Discoms.

(ii) Discoms submitted that while computing the base price of Average Billing Rate to grant the DF and performing cost-benefit analysis the petitioner made its calculation based on the fact that O&M expenses would be recovered based on normative sales as per the RERC Regulations. Discoms submitted that the sales made by the distribution licensee includes the units sold to DF and thus, the O&M expenses should be allowed on total sales made in Discoms's area to the end consumers.

4. **Computing distribution loss at consumer end of distribution franchisee area.**

Stakeholder's Comments/suggestions

(i) It was submitted that supply to Franchises is being made by Discoms at input points of the Franchisee. Thus, any distribution loss within the area of Franchisee for making supply to its consumers is being borne by the Franchisee and not by the Discoms.

(ii) It was submitted that Discoms are also billing the Franchisees as per supply made at input point and not for the units sold to consumers within the area of Franchisees. Thus, the distribution loss of franchisee area are being borne by the Franchisee and not by Discoms. Thus, question of distribution loss of Franchisee area to be considered for Discoms does not arise. Hence, Commission order needs no review. it was further submitted that commission considers the sales at consumer end therefore normative losses are also considered at consumer end i.e. by including sales of consumers in franchisee area instead of sales at input level.

Petitioner's Response

Discoms submitted that the approach of the Commission to consider the sales in the DF area at the consumer level considering the DF being an internal arrangement on one hand and disallowing the O&M expenses of the Discoms in the DF area on the other hand may be contradictory in nature. Thus, the Discoms requested to consider the submission and consider the sales to distribution franchisee at input level not at consumer end while calculating the distribution loss.

5. **Methodology of Interest on Regulatory Assets**

Stakeholder's Comments/suggestions

It was submitted that regarding interest on Regulatory Assets, Discoms have not brought out any error or mistake on the face of record, therefore, request of the Discoms for any review in the matter, be rejected and dismissed by the Commission.

Petitioner's Response

Discoms submitted that while approving the interest on approved unfunded gap for a particular year, the Commission has been allowing the interest on unfunded gap from next financial year. Due to the current methodology, the interest on unfunded gap for the Truing up year is not being accounted for and the same is being borne by the Discoms. Thus, Discoms requested to approve the interest on regulatory assets for the FY 2018-19 revised true up order and adopt the same methodology while truing up for the ensuing years.

6. **Power purchase cost is being disallowed on higher T&D losses over and above the normative norms.**

Stakeholder's Comments/suggestions

(i) It was submitted that Discoms have not brought out any error or mistake on the face of record nor they have brought any new matter discovered, Discoms have only argued that Commission, should consider the average variable cost of power purchased instead APPC.

(ii) It was submitted that as per Hon'ble Supreme Court, the party is not entitled to seek a review of a judgment delivered by the court merely for the purpose of re-hearing fresh decisions of the case.

(iii) It was further submitted that right from the year 2016 Commission while disallowing the loss of excess power purchased on account of excess T&D losses, has first considered the power purchased from short term sources and rest from approved sources.

Petitioner's Response

Discoms have submitted detailed justification regarding the issue and highlighted the major impact it bears on the financials of the Discoms. Therefore, Discoms requested to consider the average variable cost of power purchase (after excluding costs of Must Run stations) instead of APPC if such an adjustment is required to be passed on into the ARR due to increased distribution losses and the disallowance in power purchase cost needs to be re-examined.

7. **Approval of long-term loans considering normative "grant' instead of actual "equity" for FY 2019-20.**

Stakeholder's Comments/suggestions

It was submitted that the sample letter produced by the Discoms is in respect of equity provided of normal capital expenditure being arrived out by the Discoms and not for state sponsored schemes. Normal capital expenditure and sponsored schemes are two different matters. Commission's order is perfectly correct and does not require any review.

Petitioner's Response

Discoms submitted that the Commission, while approving the addition of long-term loans during the FY 2019-20, took into consideration the normative grant as receivable from GoI and GoR under central sponsored schemes and state sponsored schemes respectively. Discoms further submitted similar methodology is not applicable while approving the capital expenditure loans pertaining to state sponsored schemes. The Government of Rajasthan, while issuing "equity" for a particular financial year has clearly mentioned the term "equity" being released with respect to capital expenditure incurred for that financial year.

Thus, the methodology of approving long-term loans while approving capital expenditure plan needs to be reassessed and the Discoms requested to approve as per the methodology approved in True-up 'orders for FY 2018-19 and before.

8. **Non-inclusion of interest on UDAY Loan in the interest and finance charges.**

Stakeholder's Comments/suggestions

It was submitted that in Commission's order, details have been given. Petitioner is requesting for re-hearing.

Petitioner's Response

Discoms submitted that Commission in its ARR & Tariff order for the FY 2019-20 dated 06.02.2020 approved interest on UDAY loans to be included for five years beginning from FY 2019- 20. However, the same were not included in the true up.

9. General Comments

Stakeholder's Comments/suggestions

1. It was submitted to furnish the compliance report on internal orders for completion of fixed assets register and for strict compliance of CEA safety regulations.

2. It was submitted that they have not received any replies on their comments on original True up petition for FY 19-20 from Discoms.

3. It was submitted that stakeholder comments were not considered in the True Up Order.

4. It was submitted that Discoms have not disclosed actual figures of revenue received but termed the billed amount as the revenue which is apparent error of the fact.

5. It was submitted that Discoms have not made compliance of the directives of the Tariff Order for FY 2019-20 and pointed out the huge AT&C losses while analyzing the energy audit data of 2020.

Petitioner's Response

Discoms submitted that looking to the importance of directives of the Commission in respect of fixed assets register and CEA safety regulations Discoms are continuously trying to ensure the compliance. For fixed assets registers all the chief engineers and superintending engineers have been strictly directed to regular updating of voltage wise fixed assets register. The Discoms are committed to reliable and uninterrupted power supply with proper safety to the general public and accordingly directed to all the officers for strict compliance of CEA safety regulations.

The Discoms submitted that the few objections raised by the stakeholders do not specifically relate to the review petition in question. The Discoms had filed the original true up petition as per the RERC (Terms and Conditions for Determination of Tariff) Regulations, 2019. Petitioners have submitted the detailed compliance to the directives issued by the Hon'ble Commission in its tariff orders. Further, Discoms submitted that the Commission has issued true up order after considering comments of stakeholders at the time of hearing and above comments are not in the scope of instant review petition.

1.12 Commission's View and Analysis

1. Commission has considered the submission made by the petitioners as well as the stakeholders. Discoms contentions in the review petitions pertains to following issues:

   a) Rate at which power purchase cost is being disallowed against higher T&D losses over and above the approved norms for FY 2018-19 & FY 2019-20,

   b) Disallowance of depreciation cost to the extent of 5% during FY 2018-19 and 10% during FY 2019-20 due to non-submission of Fixed Asset Register (FAR)

   c) Disallowance of O&M expenses of Discoms by deducting sales made by the Distribution Franchisee for FY 2018-19 & FY 2019-20,

   d) Computing distribution loss at consumer end of distribution franchisee area to Discoms for FY 2018-19 & FY 2019-20,

   e) Methodology of interest on regulatory assets for FY 2018-19**,**

   f) Non-approval of interest under UDAY loans as allowed in ARR & Tariff order for the FY 2019-20 and

   g) Approval of loans at normative "grant" instead of actual "equity" for FY 2019-20 were placed before the Commission.

2. Commission observes that review of an order may be considered by the Commission under section 94 (1) (f) of the Electricity Act, 2003 read with Order No. XL VII Rule 1 of Civil Procedure Code, on the following grounds:

   a) Discovery of new and important matter or evidence which after exercise of due diligence was not in the knowledge of the applicant and could not be produced by him at the time when the decree or order was passed.

   b) Some mistake or error apparent on the face of the record, and

   c) For any other sufficient reason.

3. Further, the ratio decided by the Hon'ble Supreme Court in its various decisions for exercise of the power of review, has been culled out by Hon'ble APTEL in judgment dt. 17.04.2013 in the matter of Ajmer Vidyut Vitran Nigam Limited Vs Rajasthan State Electricity Regulatory

Commission & Anr. in RP No.12 of 2012 in Appeal No.17 of 2012 are as follows.

(a) It is well settled that the Review Proceedings are not by way of an Appeal and have to be strictly confined to the scope and ambit of Order 47 Rule1, CPC;

(b) The Review jurisdiction cannot be exercised on the ground that the decision was erroneous on merits. That would be the province of the court of Appeal. A power of Review is not to be confused with Appellate power which may enable an Appellate Authority to correct all matter of errors committed by the subordinate court. This power has not been conferred in the review jurisdiction;

(c) An error apparent on the face of record must be such an error which might strike one mere looking at the record and would not require any long drawn process of reasoning on points where there may be two opinions;

(d) An error which has to be established only by lengthy and complicated arguments during the long drawn process of reasoning cannot said to be an error apparent on face of the record;

(e) The party is not entitled to seek a Review of a judgment delivered by the Court merely for the purpose of rehearing a fresh decision of the case. The principle is that the judgment pronounced by the court is final. Departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

(f) If the view adopted by the Court in the original judgment is a possible view having regard to what the record states, it would be difficult to hold that there is an error apparent on the face of the record.

(g) The parameters are prescribed in order 47 Rule 1 CPC. It permits the party to press for a re-hearing on account of some mistake or error apparent on the face of the record or for any other sufficient reason. The former part of the rule deals with a situation attributable to the applicant and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible;

(h) There is a distinction between a mere erroneous decision and a decision which could be characterized by error apparent. The Review is by no means an Appeal in disguise whereby an erroneous

decision is re-heard and corrected. Review lies only on a patent error.

(i) Whatever, the nature of the proceedings, it is beyond dispute that a Review proceedings cannot be equated with the original hearing of the case. The finality of the judgment delivered by the Court will not be reconsidered except "where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility;

(j) Where the order in question is appealable and the aggrieved party has adequate and efficacious remedy by recourse to Appeal the original courts should exercise the power to review its order with the greatest circumspection;

(k) An error contemplated under the Rule must be such which is apparent on the face of the record. It cannot be an error which has to be fished out and searched.

(l) Expression "any other sufficient reason" appearing in order 47 Rule1 has to be interpreted in the light of the other specified grounds."

4. It is observed that the review jurisdiction of this Commission under Section 94 is very limited and is only on the grounds specified in order 47 Rule 1 of CPC. In the background of review jurisdiction available to it in law, Commission has looked into the arguments of Review Petitioners.

5. In view of above orders, it is observed that in the instant petitions, Discoms have been only rearguing the case and seeking revision of Commission's orders without pointing out any error apparent on the face of the record.

6. As far as interest under UDAY loans is concerned, Discoms have filed separate claim for interest on UDAY loan in true up petition for FY 2020-21, thus the same shall be considered by the Commission in the true up order for FY 2020-21.

7. The Commission vide order dated 27.01.2021 and 07.09.2021 has given detailed reasoning on rest of the issues raised by the Petitioners, there is nothing new to be considered on the same issues for which review is sought by the Petitioners.

8. As Discoms could neither point out any apparent error nor provided any new information which satisfies the conditions for review of the impugned orders, the submissions of Discoms are not maintainable in the Review Petitions.

9. During hearing many stakeholders have raised the issue of non availability of Fixed Assets Register of Discoms on Discom's website. For ease of access of these to stakeholders, Discoms are directed to place the Fixed Assets Registers on their website.

10. The review Petitions stand disposed of in the above terms.

(S. C. Dinkar) Member	(Dr. B.N. Sharma) Chairman

List of Stakeholder Impleaded (Annexure- A)

1. Sh. G.L. Sharma
2. Sh. Y. K. Bolia
3. Sh. D.S. Agarwal
4. Sh. B. M. Sanadhya,
5. Sh. Anshuman Gothwal/M/s. BASK Research Foundation
6. Sh. D.P. Chirania

List of Stakeholder submitted comments (Annexure- B)

1. Sh. G.L. Sharma
2. Sh. Y. K. Bolia
3. Sh. B. M. Sanadhya,
4. Sh. D.P. Chirania

List of Stakeholder appeared in Hearing (Annexure-C)

1. Sh. G.L. Sharma
2. Sh. Y. K. Bolia
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