Tamil Nadu Spinning Mills Association vs Tamil Nadu Electricity Regulatory ... on 11 May, 2026

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APPEAL No. 356 OF 2017

Dated: 11th May, 2026
Present: Hon`ble Ms. Seema Gupta, Officiating Chairperson
Hon`ble Mr. Virender Bhat, Judicial Member

IN THE MATTER OF:
TAMIL NADU SPINNING MILLS ASSOCIATION,
2, Karur Road, Modern Nagar,
Dindigul - 624 001,
Tamilnadu. ... Appellant(s)

VERSUS

1. TAMIL NADU ELECTRICITY REGULATORY COMMISSION
Rep. by its Secretary,
No.19A, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600 008,
Tamil Nadu.

2. TAMIL NADU GENERATION AND DISTRIBUTION,
Corporation Ltd (TANGEDCO)
144, Anna Salai,
Chennai - 600 002. .... Respondents

Counsel on record for the Appellant(s) : Mr. Kumar Mihir
Mr. Avinash Menon
for App. 1

Counsel on record for the Respondent(s) : Mr. Sethu Ramalingam
for Res. 1

Mr. Anusha Nagarajan
for Res. 2

JUDGEMENT

PER HON'BLE MRS. SEEMA GUPTA, OFFICIATING CHAIRPERSON

1. The captioned appeal No. 356 of 2017 has been filed by Tamil Nadu Spinning Mills Association, challenging the order dated 11.08.2017 in T.P. No. 01 of 2017 ("Impugned Order") read with order dated 13.03.2018 passed in R.P No 4 of 2017 passed by the Tamil Nadu Electricity Regulatory Commission.

2. The Appellant- Tamil Nadu Spinning Mills Association (hereinafter referred as "Appellant /TSMA") is a Registered Association established on 29.08.1997, in the State of Tamil Nadu. The Respondent No. 1- Tamil Nadu Electricity Regulatory Commission is the Regulatory Commission for the State of Tamil Nadu constituted under Section 82 of the Electricity Act 2003. The Respondent No.2- Tamil Nadu Generation and Distribution Corporation Ltd (herein refer as TANGEDCO/Respondent No.2) is the distribution licensee in the State of Tamil Nadu.

Factual matrix of the Case:

3. On 30.11.2016, the Respondent No.2 filed the Petition for truing up of FY 2011-12 to FY 2015-16, determination of Multi Year ARR for FY 2016-17 to FY 2018-19 and determination of Retail Tariff for FY 2017-18 before the State Commission. Respondent No.2 also filed a Petition in M.P No. 31 of 2016 before the Commission seeking time extension upto January 31, 2017 for the ARR of FY 2017-18, since the Government of Tamil Nadu (GoTN) has decided to join the Judgement in Appeal Nos. 356 of 2017 UDAY scheme, which will have direct impact on the profitability of Respondent No.2. State Commission granted the time extension.

4. The MoU under UDAY scheme was entered into between the GoI, GoTN and the Respondent No 2 - TANGEDCO on 09.01.2017 and considering the consequent financial impact of the said MoU, the Respondent No.2 filed the Petition before the State Commission on 27.01.2017. Same was admitted as T.P. No.1 of 2017 in which State Commission passed the order on 11.08.2017.

5. The Respondent No.2, filed a Review Petition being R.P. No. 4 of 2017 to review certain items of the Order dated 11.08.2017 in T.P. No. 1 of 2017, in which State Commission passed the order on 13.03.2018, wherein it partly allowed the relief sought.

6. Aggrieved by certain parts of the Impugned Order dated 11.08.2017 read with review order dated 13.03.2018, the Appellant herein filed the instant appeal on 15.05.2018.

DISCUSSION AND ANALYSIS

7. Heard Mr. Kumar Mihir, learned counsel on behalf of the Appellant, Mr Sethu Ramalingam on behalf of the Respondent No 1-State Commission, and Ms. Anusha Nagrajan, learned counsel for the Respondent No 2 - TANGEDCO, perused the Impugned Order dated 11.08.2017 and Review Order dated 13.03.2018, along with the written submission filed by the parties, and other documents. The Appellant, has made submission on following issues:

> Judgement in Appeal Nos. 356 of 2017 A. Relinquishment of Rs. 2500 Crore subsidy receivable from the Tamil Nadu Government by the Respondent No 2-TANGEDCO.
>
> B. Approving increase in line loss and Calculation losses to OA consumers connected to different voltages.
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> C. Excess scheduling and system operation charges (SSOC) D. Md integration time reduced to 15 minutes from 30 minutes - md charges may increase to HT Services:
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> E. Cross subsidiary surcharge Our consideration and views on each of these issues are deliberated in following paragraphs:
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> ISSUE A: RELINQUISHMENT OF RS.2500 CRORE SUBSIDY TO BE RECEIVABLE FROM THE TAMIL NADU GOVERNMENT BY THE TANGEDCO for FY 2017-18.
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> SUBMISSIONS URGED ON BEHALF OF APPELLANT
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> 8. It is submitted that the proposal of Respondent No.2 to forgo subsidy amounting to Rs. 2500 Crore was objected to by the stakeholders, who specifically contended that the said amount ought to be utilized for the purpose of reducing the tariff. The State Commission, accepted the proposal for reducing the subsidy portion of energy charges for the domestic category of consumers and it failed to appreciate that since Respondent No.2 is already reeling under a severe financial crisis, the relinquishment of Rs. 2500 Crore would be ultimately shifted to the shoulders of the consumers and other stakeholders at a later stage, in a different form, by way of increased tariff, particularly when Respondent No.2 was already burdened with a cumulative loss of Rs. 1,02,400 Crore as on 31.03.2016.

Judgement in Appeal Nos. 356 of 2017

9. A bare perusal of the Section 65 of the Electricity Act, 2003 clearly establishes that it mandates the State Government to provide the subsidy in advance. However, on earlier occasions, such subsidy had been paid belatedly by the State Government upon quantification by the State Commission. In the present case, both the request of Respondent No.2 to forego the subsidy and the approval granted by the State Commission without the benefits under the UDAY Scheme being received are contrary to the mandate of Section 65 of the Act. Section 65 further makes it

abundantly clear that the State Government is obligated to pay the subsidy notwithstanding any direction that may be issued under Section 108, thereby reflecting one of the strictest statutory mandates under the Act to ensure that the Government discharges its obligation of payment of subsidy.

10. The State Commission has placed contradictory statements in different portions of its counter while justifying the approval granted for the relinquishment of subsidy payable by the Government of Tamil Nadu.

> "It may be seen from para-5.3.5 of the impugned order that the present relinquishment has been allowed in view of the stand-alone revenue surplus of Rs.2231.59 crores for FY 2017-18 and the necessity to take next logical step to provide relief to the consumers."

.....

> "Therefore, the Commission is accepting TANGEDCO's proposal to reduce the subsidy portion of energy charges applicable to domestic consumers, as a one-time measure. however, there will be no reduction in effective tariff payable by the domestic consumers.

11. Thus, while at one place the State Commission has sought to justify the relinquishment of subsidy on the ground that it would reduce the tariff burden on consumers, at another place it has categorically stated that there would be no reduction in the effective tariff payable by the consumers.

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12. The State Commission has justified the approval granted for reduction/relinquishment of subsidy payable by the GoTN on the ground that the Government had taken over certain loans of Respondent No.2 under the UDAY scheme. However, once the Government of Tamil Nadu had entered into the UDAY Scheme, the obligation to assume such loans rested with the Government itself. The State Commission has further stated that the reduction in subsidy was intended to lessen the financial burden on the State Government and thereby assist it in maintaining fiscal discipline. Such considerations, however, find no mandate under the Electricity Act, 2003. It is widely reported that Respondent No.2 continues to incur substantial and persistent financial losses, and therefore there exists no justification for permitting the utility to forgo such subsidy at a time when its financial condition remains severely strained.

SUBMISSIONS URGED ON BEHALF OF RESPONDENT NO.2 -TANGEDCO

13. The GoTN has entered into a tripartite Memorandum of Understanding with Respondent No.2 and the Government of India on 09.01.2017 for participation in the UDAY, aimed at achieving financial turnaround of State distribution utilities through debt restructuring, operational efficiency improvements, and tariff stability. Under the scheme, the total debt of Respondent No.2 as on

30.09.2015 amounting to Rs 30,420 Crore was proposed to be restructured, out of which 75% (Rs 22,815 Crore) was taken over by GoTN and converted into 15-year State Government bonds with a 5-year moratorium, while the remaining 25% (Rs 7,605 Crore) was converted into bonds by Respondent No.2 with State Government guarantee. As a consequence of such restructuring, Respondent No.2 was projected to achieve net cash-flow savings of approximately Rs. 3,082 Crore per annum, along with revenue expenditure savings of Rs. 3,514 Crore, translating into a reduction of about 42 paise per unit in cost, which was proposed to be Judgement in Appeal Nos. 356 of 2017 passed on to consumers. Additionally, a cash-flow relief of Rs 2,282 Crore was expected to significantly reduce dependence on short-term working capital borrowings, thereby yielding further interest cost savings. On the basis of the aforesaid financial benefits, it was proposed to retain the existing tariff without imposing any additional burden on consumers, and it was categorically stated that, in the absence of such debt takeover under UDAY, Respondent No.2 would have been compelled to revise tariffs upwards to offset a cash-flow burden of approximately Rs 5,164 Crore per annum.

14. It is further submitted that, in order to balance the financial burden upon the GoTN, the benefits that had accrued to Respondent No.2- TANGEDCO and the consumers, a reduction in subsidy borne by the GoTN was proposed, with the objective of avoiding any future tariff shock to consumers, as stated in para 3 of the Counter Affidavit. The said decision was taken pursuant to, and in strict compliance with, the policy decision of the Government of Tamil Nadu as reflected in G.O.(Ms) No. 4, Energy (C2) Department dated 18.01.2017, issued with the approval of the Governor of Tamil Nadu, after due consideration of the financial implications of the UDAY, the fiscal constraints of the State Government under the FRBM framework, and the necessity of creating fiscal space to absorb Respondent No.2's debt taken over by the State. Accordingly, the Government permitted Respondent No.2 to approach the State Commission for appropriate tariff modification by reducing the subsidy burden to the extent of Rs 2,500 Crore without increasing the tariff burden on consumers. It is further submitted that the grant of subsidy under Section 65 of the Electricity Act, 2003 is neither mandatory nor a matter of right, as the provision does not impose any statutory obligation upon the State Government to grant or continue subsidy at any particular level, nor does it confer any enforceable right upon consumers or associations to claim such subsidy in perpetuity. It is also pertinent that the said Government Order has not been challenged by the Appellant or any other party.

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15. The State Commission, at paras 5.6.16 and 5.6.17, determined the cumulative revenue gap of Rs 30,884.15 Crore for the period from FY 2011-12 to FY 2015-16, against which the debt takeover of Rs 22,815 Crore under UDAY was duly adjusted at the end of FY 2016-17, and the carrying cost was computed only on the remaining balance amount in strict conformity with the terms of the UDAY MoU and the applicable interest rates.

16. It is further submitted that the Appellant is not a "person aggrieved", inasmuch as the tariff applicable to HT consumers--under which category the members of the Appellant fall--has not undergone any increase, and even in the present Appeal, Appellant has merely expressed an

apprehension rather than demonstrating any actual prejudice; thus, its contention that reduction in subsidy would ultimately be passed on to consumers is wholly speculative and contrary to the record. It is further submitted that such objections were duly considered by the State Commission, which, after detailed examination, accepted the proposal of Respondent No.2 as a one-time measure, while specifically recording that the subsidy provided by the Government of Tamil Nadu is partial in nature, particularly for domestic consumers, that such domestic consumers account for more than 50% of the total subsidy outgo, and that there would be no change in the effective tariff payable by domestic consumers as a consequence of such subsidy rationalisation. In any event, the decision of the State Government to grant, modify, or withdraw subsidy is a matter of policy falling within its exclusive domain, and such policy decisions cannot be assailed before the State Commission under the Electricity Act, 2003, as the jurisdiction of the Commission is confined to tariff determination and sectoral regulation and does not extend to adjudicating upon the validity or desirability of Government subsidy policy; accordingly, any challenge to the grant, reduction, or withdrawal of subsidy is misconceived and liable to be rejected.

Judgement in Appeal Nos. 356 of 2017 CONSIDERATION AND OUR VIEWS

17. Elaborate submission have been made on behalf of Appellant & Respondent No 2- TANGEDCO. For the purpose of adjudicating the present issue, it is relevant to refer to the principle of tariff determination by State Commission and rational for subsidy extended by State Govt. Under Section 61 of the Electricity Act, 2003, the State Commission is mandated to determine tariffs in a manner that reflects the cost of supply, safeguards consumer interests, and ensures the financial viability of the distribution licensee.

18. The Appellant has referred to section 65 of the Electricity Act, to contend that to forego the subsidy by Respondent No. 2 and that too without the benefits under the UDAY Scheme being received are contrary to the mandate of the said provision. It is the case of the Appellant that, in terms of Section 65, the State Government is obligated to pay the subsidy notwithstanding any direction that may be issued under Section 108 of the Act. In this context, it is apposite to extract the provisions of Section 65 of Electricity Act, 2003.

> "65. Provision of subsidy by State Government - If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the State Commission under section 62, the State Government shall, notwithstanding any direction which may be given under section 108, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by the grant of subsidy in the manner the State Commission may direct, as a condition for the licence or any other person concerned to implement the subsidy provided for by the State Government:
>
> Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by the State Commission shall be applicable from the date of issue of orders by the Commission in this regard".

19. The Section 65 provides that if the State Government desires to subsidize any category of consumers, it shall pay the amount of subsidy in advance to the licensee, enabling the Commission to determine and maintain a cost-reflective tariffs. The rationale behind State Government subsidies in electricity tariffs is to balance affordability for vulnerable sections of consumers (like farmers and low- income households) along with the financial viability of utilities, and ensuring tariffs remain cost-reflective and aligned with statutory principles. In practice, subsidies allow State Commissions to determine tariffs based on actual cost of supply, while governments directly compensate utilities for the difference, protecting consumer interests without distorting regulatory integrity. The proviso to section 65 clearly specify, that in case subsidy is not provided in terms as specified i.e. in advance, then tariff as determined by the Commission shall be applicable meaning thereby that there shall be no subsidization of tariff. In nut shell, the subsidies are a policy instrument, and it allows State Governments to pursue social equity while leaving tariff determination to independent Commissions. This dual structure preserves regulatory discipline, ensures consumer protection, and sustains the financial health of the electricity sector.

20. As per the intent of Section 65, Subsidy is not a statutory right of the consumer but a policy concession granted by the State Government. We take note from the order of GoTN dated 18.01.2017 that with the participation in the UDAY scheme, State Government is to undertake 75 % of loan of Respondent No. 2 (i.e Rs 22,815 Crore) by issue of 15 year Bond with 5 year moratorium, through conversion of debt into grant in 5 year period and which shall lead to additional financial burden of Rs 6,388 Crore annually for the first five years and Rs 4,107 Crore annually from sixth year onwards till the repayment of bonds. The said order further read that considering the ability of State Government to absorb and service the TANGEDCO loan and to maintain fiscal deficit of 3% of the Judgement in Appeal Nos. 356 of 2017 GSDP, it was necessary to create the fiscal space up to Rs 2500 to Rs 3500 Crore for State Government to absorb this debt takeover. In this context, it was decided that TANGEDCO shall seek suitable modifications of tariff by reducing subsidy from GoTN to an extent of Rs 2500 Crore without affecting consumers. Thus, the withdrawal /surrender of subsidy to the extent of Rs.2500 Crore was undertaken in the context of creating fiscal space for assuming greater liability by GoTN by way of debt take over of TANGEDCO, under UDAY Scheme.

21. It is to note from the Impugned Order that takeover of Rs 22,815 Crore of debt of TANGEDCO by GoTN, will result in saving of interest to the tune of Rs 2,882 Crore, however, since same is not considered while approving interest on loan, the immediate benefit of UDAY is not considered. As such the interest on such loan is not accounted for tariff calculation purposes and is accordingly not passed on to the consumers. However, it is to note that such a debt takeover under UDAY scheme has been adjusted against the revenue gap at the end of FY 2016-17 and carrying cost only on the balance revenue gap / regulatory assets has been accounted for. The relevant extract of the Impugned Order is reproduce hereunder:

> "Table 5.12 : Asset at the end of FY 2016-17 as approved by the Commission (Rs. Crore) Sl. Particulars Legend FY 2016-17

1. Opening balance A 30,884.15

2. Addition during the year B 2,864.47

3. Gap of FY 2010-11 amortized under C (1,216.21) FRP

4. Closing balance D = A +B+C 32,532.41

5. UDAY debt take over E 22,815.00 Judgement in Appeal Nos. 356 of 2017

6. Remaining balance after deducting debt F= D-E 9,717.41 taken over

7. 25% of remaining debt after UDAY G 7,605.00 takeover

8. Balance amount H+F-G 2,112.41

9. Interest rate for computing carrying cost O 6.35% on Rs.7605 Crore (Bank Rate = 0.1%)

10. Interest rate for computing carrying cost J 11.00% on balance amount

11. Carrying Cost K = (G*J) + 715.28 (H*

12. Regulatory Asset L+F+K 10,432.70

22. Further, in the Impugned Order, methodology for recovery of regulatory assets of Rs 10432.70 crore is not considered, and the said regulatory assets continue to remain in the books of TANGEDCO and it has been advised to strive towards reducing a part of regulatory assets by way of improved financial performance under the UDAY MoU. It is further observed from the para 5.3.10, that approved changes will lead to some revenue loss, which need to be made good by the GoTN so that tariff payable by domestic consumers remains unaffected. Relevant paragraph is reproduced below:

> "5.3.10 The Commission has further observed certain anomaly in the Tariff Proposal submitted by TANGEDCO, which was also pointed out during the SAC Meeting. As per the TANGEDCO's proposal, the per unit rate of consumption for consumers in lower consumption slab is higher as compared to the per unit rate of consumption for consumers in higher consumption slab. This proposal of TANGEDCO is not in line with the philosophy of telescopic tariff. Hence, the Commission has modified some of the slab-wise rates for domestic category, while the Tariff for all other categories has been retained at existing levels. As a result of this change in the slab-wise rates proposed by TANGEDCO and approved by the Commission, as well as rejection of the proposal to reduce the Fixed Charges, the reduction in subsidy payable by GoTN has undergone a change. GoTN has to make good this revenue loss also, in order to

ensure Judgement in Appeal Nos. 356 of 2017 that the tariff payable by the domestic category consumers remains unaffected, after the tariff revision."

23. It is also contended by the Appellant that the surrender of subsidy by the Distribution Licensee may result, in an increase in tariff, the burden of which would ultimately be shifted upon the consumers. However, such contention rests merely on apprehension and conjecture, without any demonstrable evidence of actual impact. It is settled principle that regulatory adjudication cannot proceed on speculative assumptions; it requires a clear causal nexus between the impugned action and the alleged consequence. In the present case, no material has been placed on record to establish that surrender of subsidy has led to any upward revision of tariff.

24. On the contrary, the material on record indicates that the Government of Tamil Nadu has undertaken a debt takeover, which has been used to reduce the quantum of regulatory assets of TANGEDCO, which in turn, lowered the carrying cost, a benefit that will ultimately accrue to the consumers, when the liquidation of regulatory assets by way of tariff is undertaken. In the present case, no increase in tariff of domestic consumer is effected rather the surrender of subsidy to aid in creating space for debt takeover by GoTN under UDAY, has alleviated the financial burden on the utility, which may ultimately lead to reduced costs to be recovered from consumers.

25. In view of the above deliberations, we are unable to accept the Appellant's contention. The apprehension of tariff escalation is unfounded, and the surrender of subsidy has not led to any upward revision in tariff. We, therefore, find no error apparent in the Impugned Order on the issue under consideration. The findings of the Commission on this aspect are upheld.

Judgement in Appeal Nos. 356 of 2017 ISSUE B. APPROVING INCREASE IN LINE LOSS AND CALCULATION OF LOSSES TO OA CONSUMERS CONNECTED TO DIFFERENT VOLTAGE LEVEL SUBMISSIONS URGED ON BEHALF OF APPELLANT

26. It is submitted that the State Commission has arbitrarily and disproportionately increased the T&D losses without undertaking any scientific study, which is contrary to its own earlier orders and inconsistent with the spirit of the National Electricity Policy and the Tariff Policy. In fact, the TANGEDCO itself opposed the computation of T&D losses and subsequently filed a Review Petition challenging the same and in the Review Order, the State Commission amended the applicable losses for open access transactions, depending upon the injection voltage and the drawal voltage.

27. With regard to technical and commercial losses, Clause 5.4.6 of the National Electricity Policy mandates that a time-bound programme should be formulated by State Electricity Regulatory Commissions for segregation of technical and commercial losses through energy audits and that energy accounting and declaration of results for each defined unit should be made mandatory, not later than March 2007, along with formulation of an action plan for reduction of losses through adequate investments and governance improvements. In the State of Tamil Nadu, there are approximately 21 lakh agricultural connections and 11 lakh hut connections which remain unmetered and are estimated to consume nearly 20% of the total grid consumption. Despite this, Respondent No.2 have failed to properly measure and account for this substantial portion of

consumption. Furthermore, not only do approximately 32 lakh consumers remain unmetered, but even distribution transformers have not been metered in the State, thereby undermining proper energy accounting and accurate determination of T&D losses.

Judgement in Appeal Nos. 356 of 2017

28. It is submitted that even in the case of metered consumers, energy audit meters have been installed only at the HT feeder breaker level, and no meters have been installed at the Distribution Transformer level. Consequently, the losses occurring in the HT segment and the LT segment cannot be measured separately and distinctly. As determined by the State Commission in the Impugned Tariff Order, the losses in the HT and LT segments (except 33 kV line losses) constitute approximately 90% of the total distribution losses. This implies that nearly 90% of the distribution losses have neither been measured nor scientifically determined, but have merely been assumed by the State Commission. Such determination of losses on the basis of assumptions, without proper measurement or scientific analysis, is arbitrary in nature. It is further submitted that this Tribunal, in its judgment dated 28.08.2011 in Appeal Nos. 192 and 206 of 2010, had issued specific directions to the Commission concerning the proper measurement of T&D losses and that despite the lapse of so many years from the date of the aforesaid order, neither Respondent No.2 nor Respondent No.1-State Commission has completed the task of achieving 100% metering. The situation continues to remain unchanged. It is further submitted that, till date, the State Commission has neither approved any definite timeframe for installation of consumer meters nor directed the licensee to ensure installation of such meters.

29. In the Tariff Order of 2014, the State Commission had approved T&D losses for the respective years as: 17.20% for 2011-12, 16.80% for 2012-13, 16.40% for 2013-14, 16.00% for 2014-15, 15.60% for 2015-16 and 15.20% for 2016-

17. However, without complying with the directions issued by this Tribunal, the State Commission has arbitrarily allowed and approved an increase of 3% in T&D losses. A comparison of the year-wise approved losses as determined by the State Commission vis-à-vis those directed by this Tribunal demonstrates a significant deviation, wherein the Commission approved losses of 18.14%, Judgement in Appeal Nos. 356 of 2017 17.74% and 17.34% for FY 2016-17, 2017-18 and 2018-19 respectively, whereas the losses in terms of the directions of this Tribunal should be 15.20%, 14.80% and 14.40% for the corresponding years. Therefore, the arbitrary increase in line losses by 3%, based merely on assumptions and without any scientific basis, is wholly unjustified and contrary to the directions of this Tribunal, and the Impugned Order deserves to be set aside on this issue.

30. It is further submitted that in the Impugned Order, the State Commission has arbitrarily increased the 110 kV transmission losses from 1.90% to 3.21% without providing any cogent rationale or justification. The so-called "Study Report" stated to have been submitted by Respondent No.2 does not even cover the 110 kV level and such increase at higher voltage levels is inconsistent with the objective of reducing losses.

31. The State Commission has repeatedly committed errors in the determination of line losses applicable to open access consumers. The stakeholders had earlier pointed out such errors in the Impugned Order, following which the Commission issued a Correction Order dated 13.03.2018 in R.P. No. 4 of 2017, revising the loss levels applicable to open access consumers. However, even in the revised order, the State Commission has assumed the existence of a transformation arrangement between 33 kV and 22 kV, whereas no such transformation exists anywhere in the transmission and distribution network of Tamil Nadu. On the basis of this incorrect assumption, the State Commission has added 50% of the 33 kV losses to 22 kV consumers and thereby computed the losses at 4.24%, whereas the correct loss level ought to have been 3.52% (2.34% + 50% of 2.35%). Similarly, the transformation from 33 kV to 11 kV has been assumed, whereas in the Tamil Nadu distribution network such transformation constitutes only about 20-30%, with the majority of transformations being 110/11 kV. Consequently, the Commission ought to have Judgement in Appeal Nos. 356 of 2017 fixed the line loss for 11 kV consumers at 3.57%, instead of 4.29% as determined in the table. If the Commission intended to specifically account for 33/11 kV transformation, it ought to have introduced a separate row in the table and distinctly specified the applicable line loss for 33/11 kV consumers. In view of the above errors, it is respectfully submitted that the Impugned Order, to the extent it relates to the increase in line losses, deserves to be set aside.

32. The purported "Study Report" stated to have been submitted by Respondent No.2 pertains only to unmetered service connections and does not address the arbitrary determination of nearly 90% of the HT and LT losses. Line loss being one of the most crucial parameters for ARR approval and tariff determination, the same ought to have been determined on a transparent and scientifically verifiable basis. Section 86 of the Electricity Act, 2003 mandates that the State Commission shall ensure transparency while exercising its powers and discharging its functions. However, the said "Study Report" was not hosted in the public domain for inviting comments and opinions from stakeholders, despite the fact that the determination of line losses directly impacts tariff fixation. The failure of the State Commission to publish the report for public scrutiny has rendered the tariff determination process opaque and effectively confined it to an internal exercise between the State Commission and the utilities, thereby violating the principle of transparency. Regarding the contention of State Commission that the "Study Report" was based on the methodology recommended by the REC and hence it was accepted, it is submitted that REC is only a financial institution which provides loans to the power sector entities and they are not the authority for approving the technical standards. As per the Electricity Act 2003, only the CEA can specify the technical standards. Further, it is also not known whether the study is conducted by any third party as directed by the Commission or conducted by Respondent No.2 itself.

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33. The aforesaid shortcomings clearly demonstrate that the "Study Report"

> has not been prepared on any sound or scientific basis and, therefore, the fixation of losses by the State Commission on the basis of such report is wholly arbitrary and unsustainable. In these circumstances, the Appellant prays that this Tribunal may be

pleased to direct the Commission, to provide a copy of the said "Study Report" to all stakeholders so as to enable the Appellant and other affected parties to place their meaningful and informed submissions thereon. Until the "Study Report" is made available for scrutiny and comments by stakeholders, the revised and modified T&D loss percentages ought not to be permitted to be implemented, since the entire exercise undertaken for fixation of line losses lacks scientific methodology.

SUBMISSIONS URGED ON BEHALF OF RESPONDENT NO 2- TANGEDCO

34. The allegation of the Appellant that the State Commission has 'disproportionately increased' or 'arbitrarily allowed' line losses in the Impugned Order is wholly misconceived. The Energy Balance approved for the MYT Control Period FY 2016-17 to FY 2018-19 clearly demonstrates a consistent declining trajectory in both Distribution Losses (14.13% □13.83% □13.53%) and Transmission Losses (4.01% □3.91% □3.81%). The State Commission has, relied upon the REC methodology-based study submitted by Respondent No.2 only for determining the loss trajectory for the aforesaid control period and for the period FY 2011-12 to FY 2015-16, the State Commission declined to revise the loss levels on the ground that the study was furnished only at the stage of true-up, and accordingly disallowed excess power purchase on account of higher losses at marginal cost, thereby safeguarding consumer interest. The sole grievance raised by the Appellant, namely that the loss levels were approved on the basis of a study and that actual losses cannot be ascertained in the absence of 100% metering at the distribution transformer and consumer levels, is Judgement in Appeal Nos. 356 of 2017 untenable and fallacious. If accepted, such contention would imply that in the absence of complete metering, no loss levels could ever be approved by the State Commission.

35. Despite the Impugned Order clearly setting out the basis for determination of the loss levels, the Appellant has neither in the Appeal nor in its Written Submissions raised any specific objection to either the methodology adopted or the outcome thereof. A perusal of the study report demonstrates that the loss levels arrived at are reasonable, particularly as the assumptions and methodology were duly tested against samples of actual data across select circles and the results were corroborated, and further, the approved loss levels are in consonance with the targets envisaged under the UDAY scheme. In these circumstances, the objections now sought to be raised to the loss levels are wholly devoid of merit and substance, especially when the Appellant has neither identified any infirmity in the results nor suggested any alternate methodology for determination of losses. It is further submitted that in the true-up exercise for the relevant control period in question (Order dated 09.09.2022), the loss levels approved by the Commission have already been trued up and remain unchallenged. Additionally, it is noteworthy that for the first time during the course of hearing, nearly nine years after the filing of the Appeal, the Appellant alleged that the T&D loss study report had not been made available to it, despite no such ground having been raised in the Appeal; rather, the Appellant has expressly relied upon and referred to the findings of the said study both in the Appeal (Grounds E & F) and in its Written Submissions dated 31.07.2024, thereby rendering such contention an afterthought and liable to be rejected.

36. The Appellant has placed reliance on Order dated 28.08.2011 passed by this Tribunal in Appeal Nos. 192 & 206 of 2010; however, the said reliance is misplaced. In the said judgment, while the

Tribunal observed that the projected Judgement in Appeal Nos. 356 of 2017 T&D loss of 18% was not correctly assessed, it did not interfere with the approved loss reduction trajectory as the same was broadly in line with accepted industry practice. The Tribunal merely directed the State Commission to expedite a scientific study for assessment of unmetered consumption and to ensure progress in metering, including installation of consumer meters and energy accounting and audit meters, without in any manner prohibiting the approval of normative losses; this position stood reaffirmed in the context of the 2013 Tariff Order, wherein in Appeal Nos. 196 & 199 of 2013 (judgment dated 27.10.2014), this Tribunal noted that the State Commission had not accepted Respondent No.2's claimed actual losses but had instead determined ARR and retail tariff on the basis of normative and progressively stringent T&D loss trajectories of 16.4%, 16.0% and 15.6% for FY 2013-14 to FY 2015-16, thereby upholding the adoption of normative loss levels rather than actual losses.

37. Since no loss assessment study report was furnished by Respondent No.2 for the true-up period, the learned State Commission has not revised the T&D loss levels approved in earlier Tariff Orders, which already stand upheld by this Tribunal. Accordingly, there is no violation of any directions issued by this Tribunal, as alleged by the Appellant, nor has the Appellant demonstrated any unjustified increase in T&D losses; on the contrary, the loss levels approved for the present Control Period continue to reflect a progressively declining trajectory consistent with the earlier approved trend.

CONSIDERATION AND OUR VIEWS

38. We heard the elaborate submissions made by the Appellant and Respondent No 2. The main grievance of Appellant is that line losses have been arbitrarily increased without any scientific study, and the study conducted by the Respondent No. 2 and considered by State Commission was not shared with the Judgement in Appeal Nos. 356 of 2017 stakeholders, and the approved losses is in violation of earlier orders by this Tribunal. In the Impugned Order following distribution and Transmission losses has been considered for the control period FY 2016-17 to FY 2018-19:

> Distribution Losses: FY 2016-17; 14.13%, FY 2017-18; 13.83%, FY 2018-19 ; 13.53%
> Transmission Losses : FY 2016-17 ; 4.01 %, FY 2017-18; 3.91, FY 2018-19 ; 3.81%.

Total Loss: FY 2016-17 ; 18.14 %, FY 2017-18; 17.74, FY 2018-19 ; 17.43%.

39. We note from this Tribunal order dated 28.08.2011 in Appeal No 192 & 206 of 2010 (Tamil Nadu Electricity Consumers' Association v. Tamil Nadu Electricity Board), reliance on which placed by the Appellant, that though it was observed that assumption of base level 18 % T&D loss is not based on scientific study but the trajectory fixed for the control period appears to be following good industry practice and this Tribunal did not interfere with the losses so approved by the Commission. However, the State Commission was directed to monitor the study conducted for assessment of unmetered consumption and also to monitor to review the progress of installation of consumer meters and ensure 100% metering well within the approved time frame.

40. We note from the Impugned Order that T&D losses approved for earlier years have not been interfered and as approved vide earlier orders have been retained, though actual losses were higher than that approved. The same as such does not form the subject matter of the present Appeal. The grievance of the Appellant is confined to the approval of approximately 3% higher T&D losses approved for FY 2016-17 to FY 2018-19 in comparison to levels approved for the previous years.

Judgement in Appeal Nos. 356 of 2017

41. It is an admitted position that Respondent No. 2 had submitted to the State Commission a study report prepared on the basis of the REC methodology for assessment of distribution losses, which was analysed by the Commission for the purpose of fixation of T&D losses for the financial years 2016-17 to 2018-19. The State Commission, in its affidavit dated 19.11.2025, has candidly acknowledged that the said study report was neither furnished to the Appellant nor hosted on its website. The Commission has further explained that such omission was not deliberate or actuated by mala fides, but was occasioned due to inadvertence.

42. It is pertinent to note that while the Appellant has, in its appeal, challenged the increase in T&D losses, however, no specific ground was taken therein with respect to the non-availability/ non-sharing of the study report. The pleadings in the appeal were completed long back, and it was only during the course of hearing that the issue of non-sharing of the study report was raised for the first time. In these circumstances, it would not be just or equitable to set aside the findings in the impugned order solely on this ground, particularly when the study report has been specifically referred to in the impugned order for arriving at the revised T&D figures, and the Appellant, even in its written submissions, has also not raised any specific objection to the methodology adopted therein or suggested any alternate methodology.

43. The settled principle of law is that a party cannot be permitted to raise new grounds belatedly during the course of hearing, especially when such grounds were not pleaded in the appeal and no prejudice is demonstrated to have been caused by the alleged omission. In the present case, the Appellant has not shown that the non-disclosure of the study report has resulted in any miscarriage of justice or has impaired its ability to contest the methodology or the outcome. On the contrary, the absence of any substantive challenge to the methodology or the Judgement in Appeal Nos. 356 of 2017 findings in the study report reinforces the conclusion that no prejudice has been occasioned to the Appellant.

44. In view of the above, we hold that the inadvertent non-sharing of the study report, though an irregularity, does not vitiate the impugned order on this account. The contention of the Appellant on this score is devoid of merit and is accordingly rejected.

45. The State Commission had analysed the loss assessment report and found that T&D loss of 14.43 % for FY 2015-16, as derived on the basis of the REC methodology is comparable with AT&C loss of 14.58 % committed in UDAY scheme, and accordingly reset the Distribution Loss for FY 2016-17 to FY 2018- 19, considering 0.3 % reduction in distribution losses from 14.43 % (FY 2015-16) for FY 2016-17 to FY 2018-19 without disturbing previous years approved T&D losses. Though it may

appear that there is about 3% increase in T&D losses as compared to previous years, however, such a decision has been arrived based on the loss assessment report which reflects higher losses and it has been observed that Respondent No 2 cannot be subjected to continuous disallowance of certain power purchase expenses on account of actual distribution losses to be higher than the targeted losses and therefore in our view such an allowance cannot be termed arbitrary.

46. The Appellant is also aggrieved by the working of applicable losses for open access transactions as approved in the review order dated 13.03.2018, contending that since no transformation exist between 33 kV and 22kV levels, 50 % losses attributable of 33 kV should not have been added to 22 kV, likewise transformation from 33 kV to 11 KV is only limited to 20% to 30%, losses for 11 kV should have been worked out accordingly. In a meshed synchronous network, various voltage level transmission system exists and there may or may not be Judgement in Appeal Nos. 356 of 2017 direct transformation between two voltage levels, however the entire system operates in an integrated synchronous manner. In such a situation effect of one voltage transmission system cannot be isolated from other voltage level system, even if not directly connected. The referred table 5.29 depicts the applicable losses when Injection voltage is 230 kV/110 kV / 33 kV/22 kV and 11 kV and drawl voltage is 230 kV/110 kV / 33 kV/22 kV and 11 kV. There may not be direct transformation between two injection and drawal voltage level, however losses of intervening voltage level system shall have bearing on the injection and drawl voltage. In view of the aforesaid, we find no error apparent in the approach adopted by the State Commission in determining the applicable losses, warranting interference on this issue.

47. With regard to 100% metering, though a fixed time line was not indicated in the Tribunal judgement, it was to be completed in an approved time line. We note from the Impugned Order that Respondent No. 2 has indicated that 100% feeder metering, DT metering and smart metering arrangements to the consumers above 200 units per month will be carried out in phased manner. We feel that since considerable time has lapsed when the Impugned Order was passed in the year 2017/2018, 100 % metering would have been completed. In case, the same is still not completed, we direct the State Commission to prescribe a definite time line for completion of such work and to monitor the same for strict compliance.

In view of above deliberations, the Impugned Order is upheld on this issue.

ISSUE C: EXCESS SCHEDULING AND SYSTEM OPERATION CHARGES (SSOC) SUBMISSION URGED ON BEHALF OF APPELALNT Judgement in Appeal Nos. 356 of 2017

48. It is submitted that in the Impugned Order, SSOC has been computed on the basis of the SLDC ARR filing in T.P. No. 3 of 2017, in which vide order dated 11.08.2017, Scheduling Charges were fixed at Rs. 160 per day and System Operation Charges at Rs. 33.74 per MW per day for LTOA/MTOA and Rs. 1.41 per MW per hour for STOA. In prior tariff determination process, stakeholders had consistently urged the State Commission to determine SSOC based on SLDC ARR; however, the recovery of charges at the rate of Rs. 2000/MW/day was permitted, while now it has been determined the SSOC as Rs. 193.74/MW/day, which is less than one-tenth of the charges hitherto levied upon the Open Access consumers, thereby clearly evidencing that the earlier levy

resulted in substantial and undue enrichment of the SLDC/Respondent NO.2. Notwithstanding the aforesaid, the State Commission, while passing the impugned order in T.P. No. 1 of 2017 for determination of distribution tariff, has failed to issue any direction to the Respondent No.2 for refund or adjustment of the excess SSOC collected earlier, thereby denying the Appellant and other stakeholders the benefit arising out of the order dated 11.08.2017 passed in T.P. No. 3 of 2017, which omission renders the impugned order legally untenable.

49. The contention of State Commission that the benefit of reduction in SSOC, based on the ARR of Respondent No.2 has been passed on to stakeholders through reduced transmission charges, is incorrect and untenable. Despite the issuance of a specific order reducing SSOC, the transmission charges continued at the same level without any corresponding reduction. In these circumstances, it is just and necessary that all OA consumers, who have paid such excessive charges be granted appropriate refund or adjustment. State Commission may be directed to look in to this aspect specifically and be further directed to allow repayment of the excessively collected Scheduling and System Operation Charges for the past periods, Judgement in Appeal Nos. 356 of 2017 SUBMISSIONS URGED ON BEHALF OF RESPONDENT NO. 2

50. It is submitted that the Appellant, for the purpose of seeking refund of alleged excess Scheduling and System Operation Charges, has placed reliance on the Order dated 11.08.2017 passed by the State Commission in TP No. 3 of 2017, wherein such charges were determined in the tariff petition pertaining to the SLDC; however, the said Order has admittedly not been challenged by the Appellant (TASMA) , and instead, TASMA has erroneously sought such relief by impugning the distribution tariff order applicable to the distribution licensee, which bears no nexus to the determination, levy, or refund of Scheduling and System Operation Charges. It is submitted that Scheduling and System Operation Charges form part of the Intra-State Transmission Tariff and allied charges, payable to the SLDC / Respondent No.2 for discharge of grid operation, scheduling, and system operation functions, and are determined in separate tariff proceedings. The State Commission, vide Order No. 2 of 2012 dated 30.03.2012 (effective from 01.04.2012), determined a composite charge of Rs 2,000 per day applicable to both Long-Term and Short-Term Open Access users, which was continued in subsequent orders, including the Tariff Order dated 28.03.2013 and SMT Order No. 8 of 2014 dated 11.12.2014. The levy of such charges was also challenged by the Tamil Nadu Power Producers Association in Appeal No. 197 of 2013 before this Tribunal, which challenge was dismissed vide Order dated 18.10.2014, thereby affirming the validity of the said charges.

51. Subsequently, the State Commission, vide Order dated 11.08.2017 passed in TP No. 3 of 2017 titled "Determination of Aggregate Revenue Requirement (ARR) for FY 2017-18 and FY 2018-19 and SLDC Charges for FY 2017-18", re- determined the Scheduling and System Operation Charges by bifurcating the same into separate components, namely Scheduling Charges of Rs 161 per day and System Operation Charges of Rs 33.74 per MW per day; however, the said Judgement in Appeal Nos. 356 of 2017 Order is not under challenge in the present Appeal. The Appellant's plea seeking refund of alleged excess Scheduling and System Operation Charges, computed as the difference between Rs 2000 per MW per day and Rs 193 per MW per day, is wholly misconceived, as it effectively seeks to reopen and challenge the Tariff Order No. 2 of 2012, which is not impugned in

the present proceedings; it is a settled position that amounts recovered in accordance with a duly notified tariff order attain finality for the period of its operation and cannot be reopened or unsettled on the basis of a subsequent tariff order applicable to a different period.

CONSIDERATION AND OUR VIEW

52. Admittedly, the State Commission vide its order dated 30.03.2012, has determined the composite Scheduling and system operation charges of Rs 2000 per day applicable to long term and short term open access customers and same was considered in previous tariff orders. State Commission in the its order in T.P.No. 3 of 2017 dated 11.08.2017 has computed separate scheduling charges and system operation charges for FY 2017-18, as noted below and said order is effective from 11.08.2017.

Particulars	FY 2017-18
Scheduling Charges	Rs. 160 per day
System Operation Charges	Rs.33.74 pe MW per day for LTOA & MTOA
	Rs.1.41 per MW per Hour for STOA

53. It is not in dispute that SLDC charges so determined in above referred order has been considered in the Impugned Order and the Appellant is only aggrieved Judgement in Appeal Nos. 356 of 2017 by the refund not accorded for previous years SLDC charges, which were certainly higher than charges now determined by order dated 11.08.2017.

54. Upon due consideration, we find no merit in the submissions advanced by the Appellant. The levy of composite charges of Rs 2000 per day was in pursuance of the State Commission's Order dated 30.03.2012. The said order, which constituted the basis for imposition of the said charges for previous years, has not been assailed in the present proceedings. The Appellant's challenge is confined to the refund of charges already levied, without questioning the validity of the foundational order itself.

55. It is a well-settled principle that unless the underlying order authorising the levy is specifically impugned and set aside, the consequential charges imposed thereunder cannot be held to be illegal or refundable. The Appellant, cannot now seek to indirectly nullify its effect by claiming refund when the commission's Order dated 30.03.2012 holds the field for previous years. We are of the considered view that the Impugned Order does not warrant any interference on this issue.

ISSUE D: MD INTEGRATION TIME REDUCED TO 15 MINUTES FROM 30 MINUTES - MD CHARGES MAY INCREASE TO HT SERVICES SUBMISSIONS URGED ON BEHALF OF APPELLANT

56. In the impugned order, energy meter integration time has been reduced from 30 minutes to 15 minutes, which is likely to increase MW deviations and impose an additional financial burden on industrial consumers. While the State Commission has observed that such reduction would not materially affect industries without spikes or dips in load patterns, it has failed to appreciate that no industry operates on a constant load and variations are inevitable. Consequently, industries such as those represented by the Appellant Association, which experience fluctuations in load, would be significantly and Judgement in Appeal Nos. 356 of 2017 adversely impacted. Further, without any classification or differentiation based on load patterns, the State Commission has mechanically approved the reduction to a 15-minute integration period. Notably, for industries already having fluctuating loads, a 15-minute integration mechanism is already in practice, and therefore, there was no justification for extending the same universally. The standard practice across most States continues to be a 30-minute integration period for consumer metering, and the State Commission has provided no cogent reason for deviating from such established norms, rendering the impugned decision arbitrary and unsustainable.

57. The introduction of the MD integration scheme based on 15-minute slots would be meaningful and workable only upon the coming into force of the ABT regime and the corresponding DSM Regulations. However, it is an admitted position that the State of Tamil Nadu continues to operate under a non-ABT regime, and even subsequent to the passing of the impugned order dated 11.08.2017, no substantial or tangible progress has been achieved at any level towards migration to the ABT regime. In such circumstances, it is submitted that the proposed MD integration mechanism, as introduced in the impugned Tariff Order, ought to be enforced only upon the ABT regime being fully operational and capable of effective implementation. The impugned order, however, seeks to give effect to the said mechanism from 11.08.2017 itself, thereby introducing and enforcing a framework which was not in existence at the time of passing of the Tariff Order. Such anticipatory incorporation of a future regulatory mechanism, without the requisite supporting infrastructure or regulatory framework being in place, is premature and untenable.

58. This Tribunal may be pleased to set aside the said provision and direct that its implementation be deferred until the State is fully transitioned to the ABT regime. It is further pertinent that the High Court of Judicature at Madras has Judgement in Appeal Nos. 356 of 2017 already granted an interim stay on the DSM Regulations in W.P. No. 15433 of 2020 vide order dated 28.09.2021, which continues to remain in force.

SUBMISSIONS URGED ON BEHALF OF RESPONDENT No. 2

59. It is contended by the learned counsel that in the tariff petition, modification of the integration period for determination of Maximum Demand (MD) by extending the existing 15-minute integration period, which was earlier applicable only to HT I-A industries, to all HT consumers, in view of evolving grid discipline and operational requirements was proposed; this was based on the fact that grid frequency monitoring, scheduling, deviation settlement, and energy accounting are undertaken on a 15-minute time block basis, and that all generators are already equipped with ABT-compliant meters operating on such intervals, rendering the continuation of parallel 15-minute and 30-minute integration systems operationally inefficient and impracticable. The State

Commission, upon consideration, found merit in the proposal and approved a uniform 15-minute integration period for determination of Maximum Demand for all HT consumers, further observing that even for industries without significant spikes or dips in load profile, such adoption would not result in any material adverse impact as compared to the earlier 30-minute integration period.

60. It is submitted that the Regional Load Despatch Centre (RLDC) maintains energy accounts and undertakes deviation settlement strictly on a 15-minute time block basis, with capacity despatch, deviation settlement, and associated penalties also being computed on such intervals; therefore, given that the State Grid is synchronised with the National Grid and is required to operate in compliance with the Indian Electricity Grid Code (IEGC), alignment of Maximum Demand integration with the 15-minute time block methodology is both necessary and justified. This Tribunal in its judgement dated 29.05.2014 in Appeal No. 203 Judgement in Appeal Nos. 356 of 2017 of 2013, "Shree Cement Limited v. Rajasthan Electricity Regulatory Commission", has already held that determination of Maximum Demand on a 15-minute time block is neither illegal nor discriminatory, and that the State Commission is fully justified in permitting distribution licensees to adopt a 15- minute integration period in place of a 30-minute period.

CONSIDERATION AND OUR VIEW

61. It is an admitted position that the integration period of 15 minutes for determination of Maximum Demand (MD) was already applicable to HT I-A industries, and by virtue of the impugned order, the same has now been extended to all HT consumers. The relevant paragraphs of the impugned order have been duly considered and are reproduced below:

> "3) In case of deviation by Open Access Customer who is also a consumer of distribution licensee, the difference between the applicable scheduled open access load and actual drawl shall be accounted Block wise and shall be settled in accordance with the following:
>
> a. The energy consumption of such customer shall be recorded in 15 minutes time block.
>
> b. Deviations between the schedule and the actual injection/drawal shall come under the purview of the intra-state ABT, as notified by the Commission and shall be settled based on the composite accounts for imbalance transactions issued by SLDC on a weekly cycle in accordance with the UI charges specified by the Commission. Billing, collection and disbursement of any amounts under the above transactions shall be in accordance with the Commission's orders on Intra-state ABT, as may be applicable from time to time. Till the implementation of Intra-State ABT, the imbalance charge shall be regulated as below:
>
> Judgement in Appeal Nos. 356 of 2017 i. In case of actual energy/demand drawal is more than the scheduled energy/demand but within the permitted energy/demand (based on contracted load and energy or quota demand and energy as applicable),

customer shall be liable to pay for such over drawal at the applicable tariff rates of that category of consumer as determined by the Commission from time to time.

ii. In case of actual energy/demand drawal is more than the scheduled energy/demand drawal and also more than the permitted energy/demand (based on contracted load and energy or quota demand and energy as applicable), payment for the capacity above the contract demand shall have to be made at the excess demand/energy charges as specified by the Commission for such categories of customers in the Regulations/Order"

62. We find merit in the contention advanced by the Respondent that grid frequency monitoring, scheduling, deviation settlement, and energy accounting are undertaken on a 15-minute time block basis, and that all generators are already equipped with ABT-compliant meters operating on such intervals. The adoption of a 15-minute integration period is thus consistent with evolving grid discipline and operational requirements. The Appellant itself acknowledges that certain categories of industries, particularly those with fluctuating load patterns, are already subjected to such a 15-minute integration methodology. However, the plea advanced by the Appellant seeking exemption for the industries represented by it is devoid of any cogent rationale or intelligible differentia.

63. This Tribunal, in its judgment dated 29.04.2014 in Appeal No. 203 of 2013, "Shree Cement Limited v. Rajasthan Electricity Regulatory Commission", has categorically held that determination of Maximum Demand for consumers availing open access in a 15-minute time block, instead of a 30-minute time block, on their drawal from distribution licensees is neither illegal nor discriminatory, and Judgement in Appeal Nos. 356 of 2017 does not violate Section 62(4) of the Electricity Act, 2003. The said judgment clearly affirms that such a methodology is in consonance with the prevailing regulatory framework and is a valid exercise of the Commission's powers. The relevant paragraphs are extracted hereunder:

"14. Summary of Findings A. The learned State Commission has not committed any illegality by allowing maximum demand determined for those consumers who avail open access in a 15 minutes time block instead of 30 minutes time block on their drawal from discoms and the same is not discriminatory and violative of Section 62 (4) of the Electricity Act, 2003 .....

C. that the State Commission has, by the impugned order, legally and correctly permitted the respondents/discoms to change the time block for recording maximum demand for open access consumers to 15 minutes instead of 30 minutes in their tariff booklet. D. that the State Commission is fully justified in passing the impugned order in subjecting the consumers availing open access to determination of maximum demand at 15 minutes time block on their drawal from discoms and the same is not discriminatory."

64. In view of the above deliberation and the binding judicial precedent, we hold that the impugned order suffers from no infirmity on this issue. The extension of the 15-minute integration period to all HT consumers is legally sustainable, operationally justified, and consistent with the trajectory of grid discipline. The contention of the Appellant is accordingly rejected, and the impugned order is upheld on this aspect.

ISSUE E: CROSS SUBSIDY SURCHARGE SUBMISSIONS URGED ON BEHALF OF APELLANT Judgement in Appeal Nos. 356 of 2017

65. The National Tariff Policy, 2016 mandates that the Cross Subsidy Surcharge shall not exceed 20% of the relevant tariff, and State Commission, also acknowledged the same while passing the impugned order, however, the said stipulation has not been duly adhered to while actually computing and determining the cross subsidy surcharge at Rs. 1.67 per unit, which is wholly erroneous and contrary to the said mandate, particularly when the applicable tariff for HT-IA industrial consumers, including the members of the association is Rs. 6.35 per unit. Even upon a liberal computation whether by taking 20% of Rs. 6.35 per unit, or Rs. 6.57 per unit (being the weighted average considering peak hour surcharge and night rebate), or even Rs. 6.90 per unit (being the maximum tariff inclusive of demand charges under a two-part tariff structure) the CSS cannot exceed Rs. 1.38 per unit.

66. The State Commission should be directed to provide the working sheet as how it has calculated the ABR values and how the Cross Subsidy Surcharge was pegged with Rs. 1.67 / Unit considering the 20% cap and Impugned Order fixing the Cross Subsidy Surcharge at the rate of Rs. 1.67 / Unit to the industrial consumers needs to be set aside.

SUBMISSIONS URGED ON BEHALF OF RESPONDENT NO.2 -TANGEDCO

67. The contention of Appellant that the Cross Subsidy Surcharge (CSS) determined by the Commission for FY 2017-18 in respect of HT-IA (HT Industry) consumers, amounting to INR 1.67/kWh, is excessive and contrary to the Tariff Policy, 2016, is contrary to the express provisions of the Tariff Policy, 2016, which prescribes the applicable framework and formula for determination of CSS, is devoid of merit

68. The Tariff Policy does not draw any distinction between demand charges and energy charges while defining "T"; rather, it expressly provides that "T" is the Judgement in Appeal Nos. 356 of 2017 tariff payable by the relevant category of consumers, which necessarily encompasses both demand (fixed) and energy (variable) charges. Consistent with this position, the State Commission, while determining CSS for FY 2017-18, recorded that the tariff payable by consumers comprises these two components and accordingly held that the appropriate representation of "T" under the Tariff Policy is the Average Billing Rate (ABR) / Average Realisation Rate, capturing the combined effect of both demand and energy charges, and further observed that had the Tariff Policy intended exclusion of demand charges, it would have expressly so provided.

69. Further, the issue raised by the Appellant is no longer res integra. This Tribunal, in Appeal Nos. 196 & 199 of 2013 (Order dated 27.10.2014), while adjudicating a challenge to the inclusion of demand charges in the computation of CSS, has categorically rejected the contention that demand charges ought to be excluded from the formula and from the calculation of the Average Billing Rate.

70. It is further submitted that this Tribunal in its judgement dated 20.05.2016 in Appeal No. 181 of 2015, "Byrnihat Industries Association v. Meghalaya State Electricity Regulatory Commission", has upheld the adoption of the Average Billing Rate (ABR) as "T" under the Tariff Policy, categorically observing that the tariff payable by a consumer constitutes an effective composite of fixed/demand and energy charges, and accordingly, ABR represents the appropriate parameter for computation of Cross Subsidy Surcharge (CSS).

CONSIDERATION AND OUR VIEW

71. The State Commission in the impugned order has worked out the category wise Average Bill Rate (ABR) and on that basis calculated the cross subsidy surcharge is indicated in the Table 5.31 of the Impugned Order, as reproduced below: -

> Judgement in Appeal Nos. 356 of 2017 Table 5-31: Approved CSS for FY 2017-18 Particulars ABR C C/ D R (CSS) (1-L%) Rs/kWh Rs/kWh Rs/kWh Rs/kWh Rs/kWh Rs/kWh HT Sales HT IA: HT-Industry 8.37 4.09 4.32 0.43 - 1.67 HT IB : Railway 7.71 4.09 4.32 0.43 - 1.54 Taction HT IIB: Govt. 7.58 4.09 4.32 0.43 - 1.52 educational institute HT IIB: Pvt. 8.05 4.09 4.32 0.43 - 1.61 educational institute HT III - HT 9.91 4.09 4.32 0.43 - 1.98 commercial HT IV - Lift Irrigation 6.35 4.09 4.32 0.43 - 1.27 societies HT V- Temporary 11.30 4.09 4.32 0.43 - 2.26 Supply Note: The above-determined CSS for each category shall remain the same, irrespective of the drawal and injection voltage, on account on capping of the CSS at 20% of the Tariff as per Tariff Policy formula'

72. It is noted from the Impugned Order that Commission has considered the Tariff as Average Billing Rate (ABR)/ Average Realization rate, which comprises the Demand charge as well as the Energy charges, and same shall be used for calculating Cross Subsidy Surcharge (CSS). This Tribunal in its judgment in Appeal No.181 of 2015 (Byrnihat Industries Association vs. Meghalaya State Electricity Regulatory Commission) dated 26.05.2016, has held that the average billing rate used in the formula T is a combination of fixed/demand and Judgement in Appeal Nos. 356 of 2017 energy charges and, therefore, ABR is the correct parameter for CSS computation. The relevant paragraph of judgment is reproduced below:-

> "19. In the National Tariff Policy formula, "T" is the Tariff payable by relevant category of consumers. The Tariff has two components viz. Fixed/ Demand charge and Energy charge and hence, for the purpose of calculating cross- subsidy surcharge, the State Commission has considered Average Billing Rate in Rs/ KWh for the respective category as "T" as it reflects the effective combination of fixed/demand and energy charges payable by that category of consumers. We are in agreement with

the formulation of the State Commission for using Average Billing Rate for a consumer category to be used while determining Cross Subsidy Surcharge."

73. The Appellant has contended that the Cross Subsidy Surcharge (CSS), when computed per unit inclusive of demand charges, ought not to exceed ₹1.38 per unit. In contrast, the State Commission, in the impugned order, has determined the CSS at ₹1.67/kWh, premised upon an Average Billing Rate (ABR) of ₹8.37/kWh. It is further urged by the Appellant that the impugned order does not disclose the detailed methodology or data relied upon by the Commission in arriving at the said ABR figure.

74. Upon careful consideration of the submissions and the judicial pronouncements placed before us, we find no infirmity in the principle adopted by the State Commission insofar as the inclusion of demand charges in the computation of ABR is concerned. The settled jurisprudence on the subject consistently affirms that demand charges form an integral component of the tariff structure and, therefore, must necessarily be factored into the calculation of the average billing rate for each consumer category. Consequently, the CSS derived on such basis cannot be faulted on principle.

75. However, while the methodology stands upheld, we are of the considered view that transparency in regulatory determination is indispensable. Regulatory Judgement in Appeal Nos. 356 of 2017 orders, particularly those affecting tariff and surcharge liabilities, must be accompanied by sufficient particulars to enable stakeholders to comprehend the basis of computation and to exercise their statutory right of scrutiny.

76. Accordingly, while affirming the principle adopted by the State Commission in the impugned order with respect to the calculation of CSS, we direct that the State Commission shall, upon an application being filed by the Appellant, furnish the detailed workings and data considered in arriving at the ABR for the consumer category represented by the Appellant. Such disclosure shall ensure adherence to the principles of natural justice, transparency, and accountability in regulatory decision-making.

CONCLUSION In view of above deliberations, we do not find any error in the Impugned Orders passed by TNERC, necessitating our interference and accordingly Impugned Order & Review order dated 11.08.2017 & 13.03.2018 is upheld. State Commission to comply with our directions as contained in the paragraph 47 and

76. The Captioned appeal and pending IAs if any are disposed of in above terms.

PRONOUNCED IN THE OPEN COURT ON THIS 11th DAY OF May, 2026.

(Virender Bhat)	(Seema Gupta)
Judicial Member	Officiating Chairperson

REPORTABLE / NON-REPORTABLE
Pr/dk/ag/ak