

APPENDIX I

REPLIES TO THE TECHNICAL VALIDATION SESSION (TVS) MINUTES OF MEETING (MoM) DATA GAPS DATED 5th FEBRUARY 2026

Petition filed by NIDP Developers Private Limited for approval of True Up for the Financial Year 2024-25 under Regulation 6.1 of the UPERC (Multi Year Tariff for Distribution and Transmission) Regulations, 2019 and in terms of Regulation 15 & 30 of the UPERC (Conduct of Business) Regulations, 2019 read with Section 62 & 64 of the Electricity Act, 2003 and for Approval of Annual Performance Review (APR) for Financial Year 2025-26 and Annual Revenue Requirement (ARR) and Tariff for FY 2026-27 as per Regulation 4.1, 7 and 8 of the UPERC (Multi Year Tariff for Distribution) Regulations, 2025, and in terms of Regulation 15 & 30 of the UPERC (Conduct of Business) Regulations, 2019 read with Section 62 & 64 of the Electricity Act, 2003 [Petition No. 2327 of 2025]

1. **The Petitioner to submit replies to all pending data deficiencies, if any, within the stipulated timeline**

Reply:

The Petitioner humbly submits that the replies to all pending data deficiencies are hereby submitted on 10th February, 2026 within the stipulated timeline and hereby adhering the direction of the Hon'ble Commission.

2. **The captive consumers can be connected only under the HV-1 / LMV-4 category. Accordingly, NIDP is directed to ensure that connectivity to captive consumers is provided strictly under HV-1 or LMV-4 category only**

Reply:

The Petitioner respectfully submits that the electricity supplied to MRSS (Main Receiving Sub-Station) (Captive Consumption) has been categorized under HV-1 (Non- Industrial Bulk Supply) Category. The proposed critical system augmentation in FY 2026-27, will enable NIDP to release connection at LT level also, if required. Thereafter, captive consumers will be categorized under HV-1 / LMV-4 category as applicable.

3. **It has been observed that the Petitioner has not received any Consumer Contribution from its consumers. The Petitioner to submit clarification regarding consumer contribution towards service line charges, metering costs, security deposit, and other related charges for FY 2024-25 and how the treatment is done**

in accordance with the UPERC Cost Data Book and UP Electricity Supply Code, 2005

Reply:

The Petitioner respectfully submits that, the Service Line Charges have been billed as per Chapter 4 A of the Cost Data book effective from 8th July, 2019 under the category 'Line Installed by the consumer' & as per the load.

Sr. No.	Connection	Load in KVA	No. of Service Lines	Cost/Service Line in Rs.	Total Amount in Rs.
1	HTP-1	2250	2	94370	188740
2	HTP-2	250	1	89510	89510
3	HTP-3	700	2	89510	179020
4	Admin	300	1	89510	89510
					546780

However, the same has been recognized as the Non-Tariff Income as per Accounts and in Tariff Petition as submitted for FY 2024-25.

Further, NIDP has collected the security deposit from its consumers at the rate as per Chapter 3 of the Cost Data Book effective from 8th July, 2019.

Sr. No.	Connection	Contract Demand (KVA)	Category	Charges (INR per KVA)	Security Deposit in Rs.
1	HTP-1	2250	HV-1	4500	1,01,25,000
2	HTP-2	250	HV-1	4500	11,25,000
3	HTP-3	700	HV-1	4500	31,50,000
4	Admin	300	HV-1	4500	13,50,000
					1,57,50,000

It is submitted that the security deposit as collected from the consumers is recognized as the Liabilities in the books of account on which interest is paid to consumers as per relevant clause of Supply Code.

- The Petitioner to provide evidence of prior approval obtained from the Commission for all CAPEX /capitalization undertaken exceeding INR 10 Crore, along with supporting thereof or to provide justification why the approval was not taken.**

Reply:

The Petitioner submits that an application for grant of Distribution License was submitted on 18th January 2023 under the relevant section of Electricity Act 2003 and format specified in the Regulations. The said application was admitted by the Hon'ble Commission as Case No. 1951/2023. In the said application, the Petitioner has

submitted Annexure 16 – “Network Rollout and Business Plan of Distribution Licensee” whereby detailed Chapter on Projected CAPEX Plan was provided from Page No. 221 to 228 highlighting the type of network to be developed and the projected CAPEX of Rs. 93.63 Crore from FY 2022-23 to FY 2029-30 was submitted for the perusal of the Hon’ble Commission.

Further, an additional submission dated 29th April, 2023 and 05th May, 2023 was made to the Hon’ble Commission under Case No. 1951/2023, whereby the Summary of the Projected Capex along with details of the Cost Components (including Work Orders, Purchase Order conducted through Tendering & Competitive Bidding (till date of submission) & the Phasing considered was submitted. The same is resubmitted for the reference of the Hon’ble Commission as **Annexure 1 (Annexure 1(a), 1(b) & 1 (c))**.

Also, the Hon’ble Commission while passing the Order dated 19.06.2023 in Case No. 1951/2023, while granting the distribution license to the Petitioner, has computed the Equity requirement considering the said CAPEX of Rs. 93.63 Crore plus the cost of transmission network of Rs. 58.18 Crore and additional working capital requirement of Rs. 4.92 Crore. Based on the above computation, the Hon’ble Commission stated the Applicant satisfies the requirement of Capital Adequacy also as laid down under The Distribution of Electricity License (Additional Requirements of Capital Adequacy, Creditworthiness and Code of Conduct) Rules, 2005. Hence, it is humbly submitted that, by concluding that the Petitioner satisfied the Capital Adequacy requirements under the 2005 Rules, the Hon’ble Commission effectively has accorded its approval to the proposed investment scale as a prerequisite for the license.

Further, as per UPERC (MYT for Distribution and Transmission) Regulations, 2019, a detailed business plan was required to be submitted for each year of the Control Period, whereby the details Capital Investment Plan, Financial Plan and Physical Targets, Equity, Grants, etc in accordance with guidelines were required to be submitted. However, the Petitioner, vide Petition No. 2171 of 2025, has prayed to grant the extension for 1 (one) year for filing the business plan and the MYT petition. The Hon’ble Commission vide its Order dated 19th March, 2025, allowed the prayer of the Petitioner and grants an extension of one year for filing of Tariff Petition. Hence, no business plan and MYT was submitted in November 2024 whereby the details of such CAPEX would might have been provided.

Consequently, the formal submission of the MYT Business Plan (originally due in November 2024) was deferred with the Commission's consent. However, all actual CAPEX/Capitalization undertaken to date remains consistent with the projections already scrutinized and accepted by the Commission during the licensing stage. The Petitioner submits that the CAPEX has been transparently reported and has formed the

basis of the Commission's own adequacy assessments, thereby meeting the intent of prior approval.

- 5. It has been observed that the MRSS & other bills submitted in response to the 1st Deficiency indicate zero values for opening and closing meter readings, and in the few bills due & disconnection dates are same. The Petitioner to submit a detailed clarification in this regard**

Reply:

Regarding zero values for opening and closing meter readings-

The MRSS (Consumer No -2601110105) auxiliary LT supply has been derived from the Admin connection (2601110104), which is an HT consumer located within the same premises. The existing allotted LT feeders do not have provisions for installing metering equipment. Therefore, based on the MFM meters installed in the MRSS, consumption values have been considered, and the corresponding units are deducted from the Admin consumer's bill. Since metering is not available on the LT side, no initial or final readings are reflected in the monthly bills. Once the necessary changes made in the panels/ feeders after implementation of Capex as planned for FY 2026-27, the separate meters shall be installed to record and bill the MRSS consumption.

Regarding the due date and disconnection dates being same in the few bills –

NIDP respectfully submit that, the due date & disconnection date for the electricity bills issued to MRSS for the months of May and June, 2024 were same due to an inadvertent error. The same has now been rectified. The copy of the MRSS bill for FY 2024-25 are attached herewith as **Annexure 2**.

- 6. The Petitioner to submit work Order/ agreement and sample bills of NIDAR for FY 2024-25**

Reply:

The copy of the Agreement executed between the Petitioner NIDP and Nidar Utilities Panvel LLP (NUPLLP) and sample bills is attached herewith as **Annexure 3 and Annexure 4** respectively.

- 7. The Petitioner to submit justification of interest on loan and ROE claimed in the Petition, duly supported with proper reasoning and relevant APTEL Order for references**

Reply:

The Petitioner respectfully submits that the Hon'ble Commission, vide Order No. 1951 of 2023 dated 19 June 2023, granted a Distribution Licence to the Petitioner, wherein

the net worth requirement was assessed at Rs. 50.46 Crore. In compliance with the said requirement, the Petitioner, through its Affidavit dated 9 May 2023, had clearly disclosed that it relies upon the financial strength and support of Mr. Niranjana Hiranandani, the promoter of the Company and Chairman of the Hiranandani Group, to meet the capital adequacy norms.

Pursuant thereto, Mr. Niranjana Hiranandani infused Rs. 619.47 Crore into the Company in the form of unsecured perpetual securities for both the Data Centre business and the Distribution business, out of which Rs. 100.46 Crore pertains to the Distribution business. These instruments are perpetual in nature, carry no interest, have no redemption obligation, and are subordinated only to the equity share capital of the Company. Accordingly, in substance, these instruments bear the characteristics of equity or quasi-equity, as they represent long-term capital permanently available to the utility for discharge of its statutory obligations.

The disclosure in the balance sheet of FY 2024-25 highlighting the treatment of the same in FY 2023-24 and FY 2024-25 is outlined as below:

13 Unsecured perpetual securities

Particulars	As at	As at
	March 31, 2025	March 31, 2024
From related parties (refer note 36)		
Mr. Niranjana Hiranandani	-	61,946.75
	<u>-</u>	<u>61,946.75</u>

During the year, the Company has fully repaid "Unsecured perpetual securities" received from a related party of Rs. 61,946.75 lakhs (March 31, 2024: received Rs. 16,830.45 (net)). This security is perpetual in nature with no interest and maturity or redemption and are callable only at the option of the Company.]

As these securities are perpetual in nature and ranked senior only to share capital of the Company and the Company does not have any redemption obligations, these were considered to be in the nature of equity instruments.

15 Borrowings

Particulars	Power Distribution		Total
	Data Centre		
Current maturities of loans			
Secured Loans			
Term loan from Bank	2,389.54	-	2,389.54
Working capital demand loan from banks	1,925.48	-	1,925.48
Unsecured Loan			
From related party*	35,852.43	10,046.42	45,898.85
	<u>40,167.45</u>	<u>10,046.42</u>	<u>50,213.87</u>

*The above borrowings are repayable on demand and carry no interest.

18 Borrowings

Particulars	As at	As at
	March 31, 2025	March 31, 2024
Current maturities of loans		
Secured Loans		
From financial institution - refer note (i) below	2,389.54	2,720.15
Working capital demand loan from banks	1,925.48	-
Unsecured Loan		
From Related Party* (refer note 36)	45,898.86	20,000.00
	<u>50,213.88</u>	<u>22,720.15</u>

*The above borrowings are repayable on demand and carry no interest.

As clearly reflected in the Balance Sheet of FY 2023-24, the said amount infused as “Unsecured Perpetual Securities” which is perpetual in nature with no interest and maturity or redemption and are callable only at the option of the company and hence is ranked senior only to share capital of the company as it does not have any redemption obligation.

However, during FY 2024-25, in order to strictly comply with the requirements of Indian Accounting Standards (Ind AS) and the General Instructions as issued by Institute of Chartered Accountants of India, the said amount was disclosed under the head “Unsecured Loan from Related Party” in the financial statements.

It is humbly submitted that as per “**SCHEDULE III FINANCIAL STATEMENTS FOR A COMPANY WHOSE FINANCIAL STATEMENTS ARE REQUIRED TO COMPLY WITH THE COMPANIES (ACCOUNTING STANDARDS) RULES, 2006 – General Direction**”, it is clearly specified that under disclosure of **C. Long-Term Borrowings**, that terms of repayment of loan along with the interest is required to be specified:

- vi) Terms of repayment of term loans and other loans shall be stated.*
- (vii) Period and amount of continuing default as on the balance sheet date in repayment of loans and interest, shall be specified separately in each case.*

The essence of the funding is of the same nature and hence the comment “*The above borrowing are repayable on demand and carry no interest*” has been mentioned in the financial statement.

The Petitioner submits that such accounting classification, driven purely by Ind AS disclosure requirements, cannot override the economic substance of the instrument, nor can it be determinative for regulatory tariff treatment.

Also, a disclosure as provided by Shri Niranjana Hiranandani declaring that the loan provided to NIDP is from its own funds is enclosed as **Annexure 5**, which proves the own / internal fund is infused by the Promoter and it also carries cost of capital.

Hence, based on the above submission, the two primary principles which is required to be considered by the Hon’ble Commission is:

- Though the amount is infused as interest free loan, the same is infused as equity / Quasi equity by the Promoter and carries its own cost of capital.
- Also, Historical approach and Tariff Regulations overrides the principle as specified in IND AS and tariff to be determined based on the Tariff Regulations.

In this regard, the Petitioner places reliance on the consistent jurisprudence of the Hon'ble Appellate Tribunal for Electricity (APTEL), which has repeatedly held that tariff determination must be based on regulatory principles and economic substance rather than accounting nomenclature.

The Hon'ble APTEL, inter alia, in various orders has categorically held that:

- Equity capital is not “free capital” and carries an inherent opportunity cost;
- Whether the funding is through equity, shareholder funds, or unsecured loans from promoters, the utility is entitled to be compensated for the time value of money;
- The normative 70:30 debt–equity ratio is adopted to ensure a balanced and fair return to both lenders and shareholders.

Further, the Hon'ble APTEL has consistently ruled that where actual equity exceeds 30%, the excess equity is to be treated as normative debt, so as to allow the utility to earn at least the interest applicable to long-term loans, recognising that shareholder capital could otherwise have earned returns elsewhere. In **Appeal No. 52 of 2008**, the Hon'ble APTEL has stated that:

32. *The above observation would reveal that the Delhi State Commission has approved the interest rate of 8.5% for notional loan for 2007 since the Appellant has not taken any new loan for capital expenditure for the said year. The only loan taken by the Appellant for the FY 2007 was for re-financing of old Delhi Power Company Limited loan. It is pointed out that in the previous tariff orders for 2002-03, 2003-04, 2004-05 and 2005-07, the Delhi State Commission had adopted the principle that while computing the rate of interest on notional loan, the State Commission is to be guided by the interest rate on actual loan availed during the year or the prevailing interest rate if no new loan is contracted during the year.*
33. *It is not debated that the rate of 8.5% considered by the Delhi State Commission was based on the loan taken by the Appellant in the FY 2004-05. It is noticed that the interest rates have subsequently increased which is evident from the movement in the prime lending rate fixed by the State Bank of India. The Delhi State Commission has not considered the cost of re-financed Delhi Power Company Limited loan for allowing interest on notional loan. **The purpose of allowing interest rate on notional loan with that of interest rates of loans actually drawn is to that the costs allowed are in line with the actual cost of loans available in the market.***

Relevant portion of the above referred Judgement is attached as **Annexure 6A** (Appeal No. 52 of 2008).

In the above case, the Judgement stated that the Appellant has not taken any new loan and therefore, the interest rate to be provided for the said notional loan needs to be the

interest rate in line with the actual cost of loans available in the market. Whereby the Hon'ble APTEL has also recognise the fact that though the loan in actual is not infused, the same needs to be considered as actual loan and to be funded through market linked rates.

This principle has been reaffirmed in multiple judgments wherein it was held that internal accruals or promoter-provided funds cannot be denied interest merely because they are interest-free in form.

Accordingly, even in a situation where the entire asset is funded through the Petitioner's own funds, including interest-free unsecured loans from the parent or promoter, the normative debt–equity ratio of 70:30 must be applied for tariff purposes. Any deviation would lead to under-recovery of legitimate financing costs, thereby undermining the financial viability of the utility.

In the present case, since the debt component is unsecured, interest-free, and provided solely to meet statutory capital adequacy requirements, there is no actual interest rate available. Therefore, the Petitioner has correctly claimed interest on normative long-term loan (70%) in accordance with Regulation 23.5 of the MERC (Multi Year Tariff) Regulations, 2019, which expressly provides that:

“Provided also that if the entity as a whole does not have actual long-term loan because of which interest rate is not available, then the rate of interest for the purpose of allowing the interest on the normative long-term loan shall be the weighted average SBI MCLR (1-Year) prevailing during the concerned year.”

The Petitioner submits that the claim is fully consistent with the MYT Regulations, settled judicial precedents, and regulatory best practices, and therefore merits acceptance by the Hon'ble Commission.

The Petitioner submits that Enacted in phases from 2016 onward, Ind AS replaces the earlier Indian Generally Accepted Accounting Principles (GAAP). Further, in the Indian regulatory context, there is a distinct separation between Financial Reporting (Ind AS) and Regulatory Accounting (Tariff Determination). State Electricity Regulatory Commissions (SERCs) and the Central Commission (CERC) generally favor Historical Cost (or "Actual Cost Incurred") over the "Fair Value" approach introduced by Ind AS. The Tariff Regulations are determined on a "Cost Plus" basis. So, if a utility revalues its assets upward under Ind AS (Fair Value), it would lead to an artificial spike in depreciation and Return on Equity (RoE), which would unfairly increase the tariff for consumers without any actual cash outflow by the utility. Hence, the IND AS principle are yet to be accepted by CERC / SERC due to following differential accounting treatment:

- Fair Value of Assets in INDAS against the Historical Cost approach adopted in Tariff Regulations.
- Expected Credit loss (IND AS 109) provisions in INDAS not recognised under Tariff Regulations
- Borrowing Cost includes the cost of interest and amortisation of ancillary cost

added to liabilities under INDAS whereas the tariff principle identifies interest cost independently and cost separately.

- Regulatory Assets / Liabilities (difference between the actual and regulatory cost) is allowed to be considered under profit and loss account as per IND AS but is not recognised under Regulatory principle.
- Comprehensive Income / Loss which comprises items of income and expense that are not recognized in profit or loss as required or permitted by other Ind AS. Examples of items included in Other Comprehensive Income / losses are:
 - Net movement on cash flow hedges
 - Revaluation of Property, Plant and Equipment (PPE)
 - Net (loss)/gain on Financial Derivatives and Options (FVTOCI)
 - Exchange differences on translation of foreign operations
 - Capital reserve (common control transaction)
 - Share of profit or loss in Associates and Joint ventures

These items are reported separately from profit or loss and are included in the Total Comprehensive Income / Expenses for the period and disclosed in the notes to the financial statements. However, such income / expenses are not recognised under Tariff Regulations.

- The IND AS recognises the Revenue as per the accrual basis and on the fair value of the assets whereas under Regulatory approach, the same is recognised as per the tariff allowed to be recovered by the Hon'ble Commission to licensee.

In light with the above submission, the Petitioner hereby provide the references of the Judgement issued by Hon'ble APTEL / Hon'ble CERC and Hon'ble SERC of other States:

1. Judgement on Normative Cost / Internal Funds

- a) **Reliance Infrastructure v/s MERC and Ors – Appeal No. 111/08 dated May 28, 2009**
- b) **Tata Power Company Ltd. vs. MERC - Appeal No.137 of 2008, 138 of 2008 and 139 of 2008 dated July 15, 2009.**
- c) **Appeal No. 173 of 2009 (Tata Power Company Ltd. v. MERC) — Judgment dated February 15, 2011**

*“7) The Commission observed that in actual fact no amount has been paid towards interest. Therefore, the entire interest on working capital granted as pass through in tariff has been treated as efficiency gain. It is true that internal funds also deserve interest in as much as the internal fund when employed as working capital loses the interest it could have earned by investment elsewhere. **Further the licensee can never have any funds which has no cost. The internal accruals are not like some reserve which does not***

*carry any cost. Internal accruals could have been inter corporate deposits, as suggested on behalf of the appellant. In that case the same would also carry the cost of interest. When the Commission observed that the REL had actually not incurred any expenditure towards interest on working capital it should have also considered if the internal accruals had to bear some costs themselves. The Commission could have looked into the source of such internal accruals and the cost of generating such accruals. **The cost of such accruals or funds could be less or more than the normative interest.** In arriving at whether there was a gain or loss the Commission was required to take the total picture into consideration which the Commission has not done. **It cannot be said that simply because internal accruals were used and there was no outflow of funds by way of interest on working capital and hence the entire interest on working capital was gain which could be shared as per Regulation No. 19.** Accordingly, the claim of the appellant that it has wrongly been made to share the interest on working capital as per Regulation 19 has merit.”[Emphasis added]*

Relevant portion of the above of the above referred Judgements are attached as **Annexure 6B** (Appeal No. 111/2008), **Annexure 6C** (Appeal No.137 of 2008, 138 of 2008 and 139 of 2008) and **Annexure 6D** (Appeal No. 173 of 2009).

d) Appeal No. 151 & 152 of 2007 (NTPC. v. CERC)— Judgment dated December 10, 2008

*“25. Accordingly, we allow both the appeals in part. We direct that the appellant be allowed to recover capital cost incurred including the portion of such cost which has been retained or has not yet been paid for. **We also direct that in case the Commission attributes any loan taken at the corporate level to a particular project under construction and considers any repayment out of it before the date of commercial operation the sum deployed for such repayment would earn interest as pas through in tariff.**” .”[Emphasis added]*

Relevant portion of the above referred Judgement is attached as **Annexure 6E** (Appeal No. 151 & 152 of 2007).

e) Appeal No. 66 of 2008 (NTPC. V. CERC) — Judgment dated August 18, 2010

“29. Of course, though this Tribunal in another decision in NTPC Vs CERC & Ors. reported in 2009 ELR(APTEL) 337 held that “The First in First Out’ method cannot be adopted it held however that the deployment of internal resources of NTPC which is in addition to the equity contribution should be considered as a deemed loan from the NTPC to the project. It has been

argued that the Commission has not considered this aspect and has reduced the interest during construction in the case of various units of Talcher II and it was but logical to give effect to adjustments for repayment of loan taken by the NTPC commonly for funding two or more generating stations while not accepting the IDC as claimed by the appellant. In view of above ruling of this Tribunal without interfering with the Commission's decision not to follow the FIFO method, we direct the Commission to allow interest on deemed loan deployed from internal resources of NTPC in addition to equity contribution in IDC." . "[Emphasis added]

Relevant portion of the above referred Judgement is attached as **Annexure 6F** (Appeal No. 66 of 2008).

f) Appeal No. 153 of 2009 (NDPL. V. DERC) — Judgment dated July 30, 2010

"45. The carrying cost is allowed based on the financial principle that whenever the recovery of cost is to be deferred, the financing of the gap in cash flow arranged by the distribution company from lenders and/or promoters and/or accruals, has to be paid for by way of carrying cost. This principle has been well recognised in the regulatory practices as laid down by this Tribunal as well as the Hon'ble Supreme Court. In 2007 APTEL 193, this Tribunal has held that "along with the expenses, carrying cost is also to be given as legitimate expense". Hon'ble Supreme Court in 2007 (3) SCC 33 has also held "the reduction in the rate of depreciation is violative of the legitimate expectation of the distribution company to get lawful and reasonable recovery of expenditure".

(iv) The next issue is relating to the inadequate lower rate of 9% for the allowance of the carrying cost. The carrying cost is allowed based on the financial principle that whenever the recovery of the cost is to be deferred, the financing of the gap in cash flow arranged by the distribution company from lenders and/or promoters and/or accrual and/or internal accrual has to be paid for by way of carrying cost. The carrying cost is a legitimate expense. Therefore the recovery of Page 57 of 60 Judgment in Appeal No. 153 of 2009 such carrying cost is a legitimate expectation of the distribution company. The State Commission instead of applying the principle of PLR for the carrying cost has wrongly allowed the rate of 9% which is not the prevalent market lending rate. Admittedly, the prevalent market lending rate was higher than the rate fixed by the State Commission in the tariff order. Therefore, the State Commission is directed to reconsider the rate of carrying cost at the prevalent market rate keeping in view the prevailing Prime Lending Rate." . "[Emphasis added]

Relevant portion of the above referred Judgement is attached as **Annexure 6G**

(Appeal No. 153 of 2009).

2. Judgement on Regulatory Approach / Accounting Standard and Citation

a) Appeal No. 108 of 2010 (Federation of Karnataka Chamber of Commerce and Industry. V. KERC) — Judgment dated January 2, 2013

*“42. Bare reading of section 61 would elucidate that the State Commissions have been mandated to frame Regulations for fixing tariff under Section 62 of the Act and while doing so i.e. while framing such regulations, State Commissions are required to be guided by the principles laid down in by the Central Commission for determination of tariff for generation companies and transmission licensees. **Once the Commission has framed and notified the requisite Regulations after meeting the requirement of prior publication under Section 181(3), it is bound by such Regulations while fixing Tariff under Section 62 of the Act and the Central Commission’s Regulations have no relevance in such cases. The Karnataka Electricity Regulatory Commission has framed MYT Regulations determination of tariff in the year 2006 and accordingly the Commission is required to fix tariff as per these Regulations. These MYT Regulations have specific provisions dealing with Return on Equity and Depreciation and the Commission is required to follow these.**” .”[Emphasis added]*

(Inference - Therefore, utility is required to maintain accounting statements as per the Companies Act for its corporate existence, for the purpose of Tariff and Revenue Requirements (ARR), the Electricity Rules and Commission Regulations take precedence.)

Relevant portion of the above referred Judgement is attached as **Annexure 6H** (Appeal No. 108 of 2010).

b) CERC Order - Petition No. 8/TT/2020 dated May 17, 2021 and 136/TT/2020 dated January 24, 2021

“36. We have considered the submissions of the Petitioner and BRPL. Similar issues were raised by BRPL in Petition No. 136/TT/2020. The Commission vide order dated 24.1.2021 in Petition No. 136/TT/2020 has already dealt with the issue raised by BRPL. The relevant paragraphs of the order are extracted as follows:

“35. We have considered the submissions of the Petitioner and BRPL. BRPL has contended that the new accounting standards adopted would result in higher tariffs. The Petitioner in response has clarified that the new standards

*adopted by it would not have any impact on the tariff to be determined by the Commission. The new accounting standards have been adopted by the Petitioner as per the requirement under the Companies Act, 2013. BRPL has merely stated adoption of new accounting standards would lead to higher tariff and has not stated how it would lead to higher tariff. The tariff is determined for the transmission assets owned by the Petitioner on the basis of the applicable tariff regulations, in the instant case the 2014 Tariff Regulations and 2019 Tariff Regulations. **As the tariff is determined on the basis of the tariff regulations, we are of the view that the adoption of the new accounting standards by the Petitioner would not have any impact on the tariff that is determined purely on the basis of the applicable tariff regulations.**” .”[Emphasis added]*

Relevant portion of the above referred Orders are attached as **Annexure 6I** (Order in Case No. 8/TT/2020 and **Annexure 6J** 136/TT/2020).

c) CERC Order - Petition No. 202/TT/2025 dated December 5, 2025

*“20. We have considered the submissions of the parties. BRPL has contended that adopting the new accounting standards would result in higher tariffs. The Petitioner has clarified that the new standards it has adopted will not affect the tariff to be determined by the Commission. The Petitioner adopted these new accounting standards in accordance with the requirements of the Companies Act, 2013. BRPL merely stated that adopting new standards would lead to higher tariffs but did not explain how. **The tariff is determined for the Petitioner’s Combined Assets based on the applicable tariff regulations, specifically the 2019 Tariff Regulations and 2024 Tariff Regulations. Since the tariff is determined by applicable tariff regulations, we are of the view that the adoption of the new accounting standards by the Petitioner would not have any impact on the tariff, which is solely based on the applicable tariff regulations.**” .”[Emphasis added]*

Relevant portion of the above referred Order is attached as **Annexure 6K** (Order in Case No. 202/TT/2025).

d) MERC – Case No. 102 of 2023 dated 31 December 2024

*“13.7 It is pertinent to note that the allowance for credit losses method is a way of estimating the amount of money that a business may lose due to bad debts. IND AS 109 introduced expected credit loss approach. Credit losses are determined based on anticipated future events and conditions. Provision for bad debts is for covering credit loss for year under consideration. **In regulatory sense, future expected losses***

cannot be part of trade receivables. Hence, there is no error in deducting expected credit loss from trade receivables shown in books for allowing provision for bad debts as per provision of MYT Regulations. Hence, review on this aspect is rejected.” [Emphasis added]

Relevant portion of the above referred Order is attached as **Annexure 6L** (Order in Case No. 102 of 2023).

e) *Tariff Order of Jaigad Power Transco Ltd.*

In Case no. 294 of 2019 dated 30th March, 2020 and 213 of 2022 dated 31st March, 2023, Financial assets and Gain arising on financial assets, due to accounting entry under IND AS was not recognised as Non-Tariff Income.

Relevant portion of the above referred Orders are attached as **Annexure 6M** (Order in Case No. 294 of 2019) and **Annexure 6N** Order in Case No. 213 of 2022).

f) *Balance Sheet of Amravati Power Transmission Co. Ltd. (APTCL)*

As per the balance sheet of APTCL, the revenue from transmission charges collected from Transmission System User (TSU) is treated as Interest on Finance Lease Receivable, whereas Hon’ble MERC considers the Revenue from Transmission Charges as per the principle provided in relevant MYT Tariff Regulations. Also, as per AS -116, the same is recognised as Lease Arrangement though historical cost approach and allowing Depreciation, Interest and RoE is considered by Hon’ble MERC while determining the tariff.

Amravati Power Transmission Company Limited
Notes to the financial statements for the year ended 31 March 2020

	(Amount in Rs. Lakhs)	
	31 March 2020	31 March 2019
22. Revenue from operations		
Operating revenue		
Revenue from operations	319.56	373.88
Interest on finance lease receivable	4,625.14	4,715.03
	4,944.70	5,088.91

As per Ind AS - 116

Ministry of Corporate Affairs (“MCA”) has notified Ind AS 116 Lease which replaces the existing lease standard, Ind AS 17 leases, and other interpretations. Ind AS 116 sets out the principles for the recognition, measurements, presentations and disclosure of leases for both lessees and lessors.

Determining whether an arrangement contains a lease

The Company has certain long term arrangements for sale of power. Such arrangements are evaluated to consider whether it contains a lease. It is considered to contain a lease if based on the substance of the arrangement:

- (i) fulfilment of the arrangement is dependent on the use of a specific asset or assets (the asset); and
- (ii) the arrangement conveys a right to use the asset.

An arrangement is considered to contain a lease if facts and circumstances indicate that it is remote that one or more parties other than the purchaser will take more than an insignificant amount of the output or other utility that will be produced or generated by the asset during the term of the arrangement, and the price that the purchaser will pay for the output is neither contractually fixed per unit of output nor equal to the current market price per unit of output as of the time of delivery of the output.

Summary of the above Judgement is submitted as below:

- The Tribunal held that where a licensee finances capital expenditure or any other expenditure from internal accruals (equity), it carries cost.
- Internal funds deployed for additional capitalisation carry a commercial cost and should attract carrying cost/interest as per regulatory principles.
- Utilisation of internal funds is not ‘free’ capital and carries an implicit cost in tariff computations.
- These precedents are routinely relied upon in tariff matters to justify **normative cost on internal funding or promoter funds** (whether in normative equity or interest-free loans or carrying cost or interest on working capital), consistent with the regulatory philosophy that capital — wherever sourced — has a cost that should be recognised for fair tariff determination.
- Tariff Mechanism needs to be in line with the Tariff Regulations and any change in the accounting principle is not binding on the tariff Regulations and same supersede.

Hence, the Petitioner request the Hon’ble Commission based on the above submissions, Judgements and Orders of Hon’ble APTEL, Hon’ble CERC & Hon’ble SERC, to consider the amount funded by Shri Niranjana Hiranandani from internal funds as Equity contributed to finance the CAPEX and allow the normative Debt:Equity Ratio of 70:30 as claimed in MYT Petition with Debt Service and RoE as cost component in ARR.

8. **The Petitioner to provide a justification for the amount of INR 17,37,564 booked under the head “Other Credit” in the format titled “5_Annexure-1_Details of Amount Billed to Consumer FY 2024-25” submitted in response to the 1st Deficiency**

Reply:

The said amount was credited to the consumer electricity bill of Dec'24 as a billing adjustment as this amount was billed excessively under ToD in the month of Nov'24 due to the error in the calculation. The error was rectified in the bill of Dec'24 by the credit.

Sr. No.	Connection	TOD Amount billed in Nov'24	Actual ToD Amount	Difference	Amount Credited in the Dec'24 Bill
1	HTP-1	9,22,362.70	-5690.00	9,28,052.70	-9,28,052.70
2	HTP-1	2,98,164.30	-1431.20	2,99,595.50	-2,99,595.50
3	HTP-1	4,85,696.40	-3894.35	4,89,590.75	-4,89,590.75
4	Admin	16,302.30	-4023.34	20,325.64	-20,325.64
		17,22,525.70	-15,038.89	17,37,564.59	-17,37,564.59

9. The Petitioner to submit a justification & working of LD charges paid to TPTCL, along with supporting documents

Reply:

The Petitioner respectfully submits that FY 2024-25 was the first year of operation and there was an uncertainty in the load growth, as an interim measure, the Petitioner decided to explore the Short Term power procurement at State Transmission Periphery, under Section 63 of the EA, 2003, in line with the Competitive Bidding Guidelines issued by Ministry of Power (MoP) Government of India (GoI) dated 30 March, 2016. Such short-term contract will be under competitive bidding at DEEP portal.

Therefore, keeping in mind the commencement of operation from April 2024, the Petitioner in its Petition in Case No. 2052 of 2023 has prayed before the Hon'ble Commission to allow procuring power under short term route from April 2024 onwards.

Based on the above submission, the Hon'ble Commission vide Order dated 09.02.2024 vide Case No. 2052 of 2023 allowed procurement of power through procure exchange for the month of March, 2024 and allowed procurement of power in FY 2024-25, through short term bidding route as per the guidelines of the Government of India. The commencement of the operation was delayed by one month and the distribution operation business went live on 4th April 2024.

Accordingly, the Petitioner has floated a RFP on timely basis for Short Term Procurement process for procuring power of 4 MW to 6 MW for the period starting from 1 April 2024 to 31 October 2024, in accordance with the e-Tendering and e-

Reverse Auction (e-RA) process laid under the 'Guidelines for Short-Term (i.e. for a period of more than one day to one year) Procurement of Power by Distribution Licensees through Tariff based bidding process' issued by the Ministry of Power, dated 30 March 2016 and amendments thereof through Discovery of Efficient Electricity Price (DEEP) Portal. The bid was undertaken to procure power at STU periphery. Also, the Petitioner has approached the Hon'ble Commission for adoption of tariff for the said short term power procurement, the details of which are provided as below:

RfP No.	Date of RfP	Seller	Period	Quantum - MW	Price – Rs./kWh	Case No.	Date of UPERC Order
NIDP/Short/23-24/ET/199 – Thermal Power	13.01.2024	Tata Power Trading Company Ltd (TPTCL)	1-4-24 to 31-5-24	4.0	6.56	2064 of 2024	19-3-24
			1-6-24 to 31-7-24	5.0			
			1-8-24 to 31-10-24	6.0			

In the initial operation of the Data Centre, the load estimated while floating the tender for power procurement and the actual load during the PPA period were lower than the expected load. Since, the demand of the Licensee area was lower than the 85% of the Contracted Capacity in some month, the power was schedule on a lower side resulting in liquidated damages which were applicable as per Clause 8.2 of PPA dated 19.02.2024.

Clause 8.2 of the PPA dated 19.02.2024 is procured below for ready reference:

8. PAYMENT FOR LIQUIDATED DAMAGES FOR FAILURE TO SUPPLY THE CONTRACTED CAPACITY

8.1. *Both Parties would ensure that actual scheduling does not deviate by more than 15% of the Contracted Capacity as per the approved Open Access on monthly basis.*

8.2. *In case of deviation from Procurer side is more than 15% of contracted energy for which Open Access has been allocated on monthly basis, Procurer shall pay compensation at 20% of Tariff per kWh for the quantum of shortfall in excess of permitted deviation of 15% while continuing to pay Open Access charges as per the contract.*

During the month of April'24, Aug'24, Sept'24 and Oct'24 the actual schedule provided by NIDP to TPTCL (which was based on the demand within license area at that time) was lower than 15% of the Contracted Capacity as per the approved Open Access on monthly basis. Accordingly, TPTCL has raised the Liquidated Damages (LD) Bill for the months of April'24, Aug'24, Sept'24 and Oct'24 as per the provisions of the PPA dated 09.02.2024. Summary of the LD Bills are provided as under:

LD Bill for the Months	LD Bill No. & Date	Bill Amount in Rs.
April, 2024	94000204537 dtd 08.05.2024	6,46,028.80
August, 2024	94000209845 dtd 12.09.2024	5,76,492.80
September, 2024	91000211809 dtd 07.10.2024	3,88,506.16
October, 2024	91000213198 dtd 14.11.2024	3,59,619.20
	Total LD Amount	19,70,646.96

The computation of the LD bill raised are provided in the below tables:

LD Bill Details - April, 2024				
Sr. No.	Particulars	Calculation	Value	Unit
1	PPA Quantum for the month of April, 2024		4.00	MW
2	Total energy to be supplied as per the contract	$a=4*1000*24*30$	2880000.00	kWh
3	Energy Scheduled by Seller	b	2825507.50	kWh
4	Permitted deviation (15% of the total contracted energy)	$c=15\%*a$	4,32,000.00	kWh
5	Actual energy supplied	d	19,01,107.50	kWh
6	Shortfall in supply	$e = b-(c+d)$	4,92,400.00	kWh
7	Rate 20% of Tariff	$f=20\%*6.56$	1.3120	Rs.
8	Liquidated Damages Amount	$g=f*e$	6,46,028.80	Rs.

LD Bill Details - August, 2024				
Sr. No.	Particulars	Calculation	Value	Unit
1	PPA Quantum for the month of August, 2024		6.00	MW
2	Total energy to be supplied as per the contract	$a=6*1000*24*31$	4464000.00	kWh
3	85% of Contracted Quantum	$b=a*85\%$	3794400.00	kWh
4	Total Energy Supplied	c	3220387.50	kWh
5	Short Fall	$d =b-c$	574012.50	kWh
6	Less Supplied By PPGCL	e	134612.50	kWh
7	Less Scheduled by Buyer NIDP	f	439400.00	kWh
8	Rate 20% of Tariff	$g=20\%*6.56$	1.3120	Rs.
9	Liquidated Damage Amount	$h=(d-e)*g$	5,76,492.80	Rs.

LD Bill Details - September, 2024				
Sr. No.	Particulars	Calculation	Value	Unit
1	PPA Quantum for the month of September, 2024		6.00	MW
2	Total energy to be supplied as per the contract	$a=6*1000*24*30$	4320000.00	kWh
3	85% of Contracted Quantum	$b=a*85\%$	3672000.00	kWh
4	Total Energy Supplied	c	3360530.00	kWh
5	Short Fall	$d =b-c$	311470.00	kWh
6	Less Supplied By PPGCL	e	15352.50	kWh
7	Less Scheduled by Buyer NIDP	f	296117.50	kWh
8	Rate 20% of Tariff	$g=20\%*6.56$	1.3120	Rs.
9	Liquidated Damage Amount	$h=(d-e)*g$	3,88,506.16	Rs.

LD Bill Details - October, 2024				
Sr. No.	Particulars	Calculation	Value	Unit
1	PPA Quantum for the month of October, 2024		6.00	MW
2	Total energy to be supplied as per the contract	$a=6*1000*24*31$	4464000.00	kWh
3	85% of Contracted Quantum	$b=a*85\%$	3794400.00	kWh
4	Total Energy Supplied	c	3516977.50	kWh
5	Short Fall	$d =b-c$	277422.50	kWh
6	Less Supplied By PPGCL	e	3322.50	kWh
7	Less Scheduled by Buyer NIDP	f	274100.00	kWh
8	Rate 20% of Tariff	$g=20\%*6.56$	1.3120	Rs.
9	Liquidated Damage Amount	$h=(d-e)*g$	3,59,619.20	Rs.

The copy of the LD bill raised by TPTCL and LD bill computation (MS Excel File) are attached as **Annexure 7** and **Annexure 8** respectively.

The Petitioner would like to inform that, the PPA with TPTCL was the 1st PPA of the Petitioner and the quantum of PPA was based on the projected demand at that point of time. In the subsequent PPAs, the quantum of power tied-up, was based on the actual demand prevailing in that period and the power was tied-up in such a way that the criteria of minimum offtake of 85% shall be met.

Further, to avoid the liquidated Damages, NIDP had sold power in Power Exchange in the month of June, 2024. NIDP had sold surplus power in the Power Exchanges in certain time blocks in summer month (June'24) to overcome the losses billed in LD Bill as the demand of power was quite less (around 20-25% less) than the contracted power. NIDP would have further sold additional power as in the present system, in case of any curtailment of schedule to generator on day ahead basis, the Generator being a STU connected plant needs to seek NOC from UPSLDC on monthly basis for sale of power which excludes the quantum tied-up with Intra-State buyer. Therefore, in case of any revision in quantum by any of the Buyer(s) on day ahead basis, Generator needs to seek additional NOC from UPSLDC for sale of that power in Power Exchange(s) for that particular delivery date. Therefore, a Generator in U.P is required additional time of five to seven days at once which will enable Generator to seek the additional NOC approval from UPSLDC for sale of such quantum and at the same time being a Discom it was very difficult to estimate power rate in advance for (week or so) regarding the price of power in Power Exchange in different time block vis a vis rate realization by off taking power from TPTCL or providing a short schedule to the Generator. In case of Maharashtra, Generator is free to sale surplus power in Power Exchange on daily basis from the schedule provided by DISCOM without daily NOC from Maharashtra SLDC

In view of the above facts put before the Hon'ble Commission, the Petitioner humbly requests the Hon'ble Commission to allow the amount pass through of LD amount paid to TPTCL.

10. The Petitioner to submit Tendering process adopted for all purchases along with copies of tender documents

Reply:

Furtherance to the response to data gap number 4) above, the copies of the major Purchase Orders, Note for Approvals, Copy of the UPPTCL's estimate for construction of 220kV Transmission Lines and UPPTCL's final invoice against the same are attached herewith as **Annexure 9A, Annexure 9B, Annexure 9C and Annexure 9D** respectively.

NIDP respectfully submits that copies of the major Purchase Orders (Annexure 9A) and Note for Approvals (Annexure 9B) have been submitted herewith for the Hon'ble Commission's reference purpose. However, due to confidentiality of the data center business and competition of the market, it is requested to consider above documents for the Hon'ble Commission's reference purpose and allow the Petitioner not to disclose the above documents in Public Domain.