BEFORE THE JHARKHAND STATE ELECTRICITY REGULATORY COMMISSION

REVIEW PETITION NO. OF 2020

IN THE MATTER OF:

Petition under section 94 of the Electricity Act 2003 and Regulation 41 (1) (2) & (3) of Jharkhand State Electricity Regulatory Commission (Conduct of Business) Regulations, 2017 for review of Jharkhand State Electricity Regulatory Commission Tariff Order for ***True-Up for FY 2018-19, Annual Performance Review for FY 2019-20, Aggregate Revenue Requirement and Tariff for FY 2020-21 for JBVNL***

AND

IN THE MATTER OF:

JHARKHAND BIJLI VITRAN NIGAM LIMITED (JBVNL) - Petitioners

MOST RESPECTFULLY SHOWETH:

1. BACKGROUND

The Jharkhand State Electricity Regulatory Commission (JSERC) or the Hon'ble Commission, in exercise of its powers vested under the Electricity Act, 2003 (EA 2003 or Electricity Act) passed Impugned Tariff Order for for ***True-Up for FY 2018-19, Annual Performance Review for FY 2019-20, Aggregate Revenue Requirement and Tariff for FY 2020-21 for JBVNL, Dated, 1st October, 2020.***

1.1 The Hon'ble Commission has stated to have undertaken the following in the Impugned tariff order.

(a) *Truing up exercise for FY 2018-19;*

(b) *Annual (mid-year) Performance Review for the FY 2019-20; and*

(c) *Determination of Aggregate Revenue Requirement and Tariff for JBVNL for the FY 2020-21, under MYT Regulations, notified by Hon'ble Commission vide dated 10th November, 2015.*

1.2 The petitioners requests the Hon'ble Commission to revisit over certain aspects of the Impugned tariff order, dated 1st October, 2020 and would request the Hon'ble Commission to review and consider the same. The issues, which the petitioner would like to take up in this petition, are detailed in the following sections.

2. ISSUES FOR REVIEW

2.1 ***Consideration of loss take over under UDAY scheme as revenue in FY 2018-19, FY 2019-20 and FY 2020-21.***

It is submitted that Government of India notified Ujwal Discom Assurance Yojana (UDAY) scheme for operational and financial turnaround of power distribution companies (DISCOMs), on 20th Nov 2015 under which State were required to take over 75% of Discom's debt as on 30th September, 2015 over two years – 50% of Discom debt was to be taken over in FY 2015-16 and 25% in FY 2016-17.

Pursuant to which Ministry of Power, Government of India and Government of Jharkhand and Jharkhand Bijli Vitran Nigam Limited signed a tripartite Memorandum of Understanding (MOU) under the Scheme UDAY – "Ujwal DISCOM Assurance Yojana" on 5th of January 2016. As per the MoU, 75% of the debt in the accounts of the JBVNL was to be taken over by the Government of Jharkhand in two years i.e. 50% of Discoms debt was to be taken over in FY 2015-16 and remaining 25% in FY 2016-17. Further as a provision for incentives/ disincentives for future financial performance for participating state, Government of Jharkhand was also required to take over and fund the losses (if any) of DISCOMs in a graded manner. The relevant extract of the UDAY Scheme has been reproduced below.

"1.2. The State Govt. of Jharkhand shall take the following measures:

…

....

k) *The Government of Jharkhand shall take over the future losses of the DISCOMs in a graded manner and shall fund the losses as follows:*

Year	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Previous Year's DISCOM loss to be taken over by State	0% of the loss of 2014-15	0% of the loss of 2015-16	5% of the loss of 2016-17	10% of the loss of 2017-18	25% of the loss of 2018-19	50% of the previous year loss

The Hon'ble Commission in its impugned Tariff Order dated 1st October 2020 while Truing-Up for FY 2018-19, Annual Performance Review for FY 2019-20, Aggregate Revenue Requirement and Tariff for FY 2020-21 for JBVNL has determined the revenue gap for the respective years. While calculating the aforementioned gap, the Hon'ble Commission has considered a revenue of **Rs 38.90 Cr** in FY 2018-19, **Rs 399.16 Cr** in FY 2019-20 and **Rs 310.48 Cr** in FY 2020-21 from takeover of financial losses of Discoms by the Government of Jharkhand as provided under the UDAY Scheme. The Loss take over under the UDAY scheme has been Calculated as 10% of the revenue gap of FY 2018-19, 25% of revenue gap of FY 2019-20 and 50% of Losses of revenue gap of FY 2020-21 i.e. **10% of Rs 389.04 Cr** (Approved opening revenue gap of FY 2018-19), **25% of Rs 1596.64 Cr** (Approved opening revenue gap of FY 2019-20) and **50% of Rs 620.96 Cr** (Approved opening revenue gap of FY 2020-21).

The relevant extract of the impugned Tariff Order has been reproduced below for the ready reference.

> *"8.11* ***The Commission has considered the cumulative gap as the opening gap for FY 2019-20 and has considered 25% of the opening losses for FY 2019-20 to be taken over by the State Government as per Clause 1.2 (i) of the MoU signed under UDAY Scheme.*** *The Commission has provided carrying cost on the Opening gap for the complete year and the resultant gap approved for 6 months. The Cumulative Gap approved by the Commission at the end of FY 2019-20 is summarized below:*

Table 138: Cumulative Revenue Gap Approved by the Commission till FY 2019-20 (Rs. Crore)

Particulars	FY 2018-19	FY 2019-20
Opening Revenue Gap	389.04	1,596.64
Revenue Gap / (Surplus) created during the Year	1,132.34	-707.45
UDAY Grants	**38.90**	**399.16**
Resultant Gap/Surplus during the Year	1,093.44	-1,106.61
Closing Gap at end of the Year	1,482.48	490.02
Rate of Interest	12.20%	12.55%
Carrying Cost on Opening Balance	47.46	200.38
Carrying cost on Additional Gap Created during the Year	66.70	-69.44
Total Gap including carrying cost	**1,596.64**	**620.96**

….

8.16 ***The Commission has computed total revenue gap till FY 2019-20 after factoring in the financial assistance under UDAY Scheme. The Commission has considered that 50% of the overall loss in FY 2019-20 shall be taken over by GoJ in FY 2020-21 as per the MoU signed under UDAY Scheme****. The Commission has considered the Gap/Surplus approved till FY 2019-20 as part of FY 2020-21. The Revenue Gap approved till FY 2020-21 is summarized below:*

Table 140: Revenue Gap approved till FY 2020-21 (Rs. Crore)

Particulars	FY 2020-21
ARR approved for FY 2020-21	6,326.00
Revenue at Approved for FY 2020-21	6,462.16
Opening Revenue Gap	620.96
Revenue Gap / (Surplus) created during the Year	-136.16
UDAY Grants	**310.48**
Resultant Gap/(Surplus) during the Year	-446.64
Closing Gap at end of the Year	174.32
Rate of Interest	11.65%
Carrying Cost on Opening Balance	47.75
Carrying cost on Additional Gap Created during the Year	-26.02
Total Gap including carrying cost	**196.06**

It is here pertinent to mention that it would not be prudent to consider the grant to be provided by Government of Jharkhand under the UDAY Scheme as "Revenue" while determining the Revenue Gap of JBVNL for FY 2018-19, FY 2019-20 and FY 2020-21 as the Grant to be provided by the Government of Jharkhand would be provided in lieu of the Financial losses of JBVNL.

Further, it is also submitted that Hon'ble Commission arrives at the revenue gap by reducing the actual/approved revenue from the approved Annual Revenue Requirement. The disallowance thus made by the Hon'ble Commission in the Annual Revenue Requirement will reflect as losses in the Income Statement/accounts of the Discom. As per the Tripartite agreement signed under the UDAY scheme, these losses in the accounts of JBVNL were to be taken over by Government of Jharkhand in a staggered way as mentioned above under point k.

Therefore, it would be principally incorrect to consider the grant to be given by the Government of Jharkhand as "Revenue", which primarily was made to fund the losses on account of disallowance made by the Hon'ble Commission. As, the grant to be given by State Government is considered as revenue, such amount has got adjusted against the Revenue Gap of JBVNL and resulted in understatement of revenue Gap. Due to the suppressed Revenue Gap, there has been no Tariff Hike which would again lead to losses in the accounts of JBVNL thereby, negating the principles set under UDAY. The above phenomenon has also been explained through an illustration given below:

Particular	Scanario-1 Loss funding not Considered in ARR	Scanario-2 Loss funding is Considered in ARR	Impact
Actual/Projected Expenditure (A)	10,000	10,000	
Approved Expenditure (B)	8,000	8,000	
Revenue (C)	7,000	7,000	
Loss taken over by Government (D=10% of F)		**200**	
Tariff Hike allowed against Gap (E=B-C-D)	1,000	800	Lower Tariff Hike
Loss in Accounts (F=A-D-E)	2,000	2,000	
Loss taken over by Government=D	**200**		
Loss to be borne by Discom	1800	2,000	Increase in losses to previous level

**The figures given above are for illustrative purpose only*

A joint reading of the argument made above, make it amply clear that the loss to be taken over under the UDAY scheme, must not be considered in revenue, as same will get adjusted against the revenue gap and would again result in increase in losses to the extent revenue from loss take over has been adjusted against the revenue gap thereby, defeating the principles set under the UDAY scheme. Due to consideration of the Grant to be provided by Government of Jharkhand for the FY 2018-19, FY 2019-20 and FY 2020-21, it is estimated that there has been understatement of Revenue Gap by **Rs 800 Cr.**

As such, the Hon'ble Commission is requested to pass a suitable order revising the revenue gap of FY 2018-19, FY 2019-20 in overall revenue gap of FY 2020-21 of the Discom along with the respective holding cost.

2.2 <u>Power Purchase Cost of DVC.</u>

It is submitted that JBVNL procures more than 35% of its overall energy requirement from Damodar Valley Corporation herein referred to as DVC. As such, any disallowance in the power purchase cost of DVC in the Annual Revenue requirement of JBVNL would have an incidence on the financial sustainability of JBVNL. The Hon'ble Commission in its impugned Tariff Order for the FY 2020-21 has disallowed the power purchase cost from DVC stating that the approval process of the PPA of DVC is still underway and as such, to arrive at the power purchase cost of FY 2020-21, the total power purchase from DVC is considered to be done in consumer mode. The relevant excerpts of the Tariff Order of FY 2020-21 have been reproduced below for ready reference.

> *"As regards power purchased from DVC Koderma, the Commission is of the view that as separate proceedings are underway for the PPA approval and the PPA is yet to be approved as prima facie, it is observed that the power purchase cost from DVC Koderma is higher than the DVC"s Distribution tariff. Hence, the Commission, for projecting cost of power has estimated the normative power purchase cost for power procured from DVC Licensee."*

Further, the Hon'ble Commission in the impugned Tariff Order for the FY 2020-21, has allowed a Power Purchase of **4133.45 Mus** @ of **Rs 3.69 per unit** thereby approving the Power Purchase Cost of **Rs 1568.44 Cr.** It is also pertinent to mention that as per Tariff Order dated 30th September 2020, Hon'ble Commission notified the Tariff for DVC wherein, the Hon'ble Commission has revised Tariff for HT institutional services. Based on the revised Tariff for the FY 2020-21, the average Tariff arrives to be **Rs 4.67 per unit**. The detailed calculation of the average tariff at which JBVNL would be procuring power from DVC has been enumerated below:

Particular	*UoM*	*Quantum*
Energy Charges	*Rs/KVAh*	*3.40*
Power Factor	*%age*	*90%*
Effective Energy Charges	*Rs/KWh*	*3.78*
Total Energy Approved (A)	***MUs***	***4133***
Total Energy Charge (B)	*Rs Cr*	*1561.36*
Fixed Charge	*Rs/ KVA/month*	*350*
*Contract Demand**	*MVA*	*878*
Total Fixed Charges Paid Annually (C)	***Rs Cr***	***368.76***
Total Charges Paid	***Rs Cr***	***1930.12***
Per unit Energy Charge	***Rs/KWh***	***4.67***

** Due to the Diversity factor, if JBVNL taken power from DVC in consumer mode then instead of current Contracted capacity of 600 MW, JBVNL will have to enter into a contract capacity of 878 MW with DVC.*

As the Hon'ble Commission has approved the Power Purchase from DVC @ Rs 3.79 per unit, there has been understatement of Power Purchase cost of DVC by Rs 0.88 per unit which when multiplied with the total power purchase quantum allowed to be procured from DVC i.e. 4133.45 Mus is leading to additional financial burden of Rs 361.88 Cr on JBVNL.

It is also humbly submitted before the Hon'ble Commission that at this point JBVNL is not contesting the decision of the Hon'ble Commission to calculate the power purchase cost assuming that the supply shall be taken in consumer mode and not in schedule mode.

In light of the argument presented above, the Hon'ble Commission is requested to pass a suitable order revising the power purchase cost of DVC allowed to JBVNL in the FY 2020-21.

2.3 Consideration of Meter Rent in Non-Tariff Income.

The Hon'ble Commission in impugned Tariff Order dated 01st October 2020 for the FY 2020-21 has specifically mentioned that the meter rent has been abolished in the said Tariff Order. However, while calculating the Non-Tariff Income for the FY 2020-21, the Hon'ble Commission has considered the of **Rs 32.86 Cr** as revenue from meter rent. It is here pertinent to mention that principally revenue can only be considered in case service has been rendered or a critical event triggers the transaction process. As the Hon'ble Commission has abolished the meter rent for all category of consumers, JBVNL won't be able to raise invoice for the meter rent in the energy bill. Therefore, the consideration of meter rent in the Annual Revenue Requirement of JBVNL for FY 2020-21, while abolishing the meter rent chargeable is not correct. Further, it is also to state that even if the same is considered while the Truing-Up of FY 2020-21, the same would still put pressure on the current cash flow situation of the already stressed Discoms.

In light of submission made above, the Hon'ble Commission is requested to pass a suitable order revising the revenue gap of FY 2020-21 of the Discom.

2.4 Revision of Minimum Billed Demand(101 KVA) for HT Consumers

It is submitted as per clause 4.3 of the Jharkhand State Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2015, the threshold Contract Demand above which, a consumer can take HT connection is 100 KVA. The Hon'ble Commission in its Tariff Order dated 28th February 2019 defined the Billing Demand as Maximum Demand recorded during the month or 75% of Contract Demand, whichever is higher. **To amend the same, JBVNL along with the Tariff petition for True-Up of FY 2018-19, Annual Performance Review of FY 2019-20 and Determination of ARR and Tariff for FY 2020-21, filed supplementary submission vide Letter No 458/CE(C&R) dated 19.03.2020 wherein, JBVNL prayed before the Hon'ble Commission to amend the definition of billing demand to the extent that " The Billing Demand shall be the Maximum Demand recorded during the month or 75% of Contract Demand or 101KVA, whichever is higher."** This was due to the reason that in cases where the Contract Demand is less than <135 KVA (101 KVA/75%) and recorded demand is also less than 101 KVA, the billed demand would also fall below 101 KVA. Therefore, in such cases, the prime condition of taking HT connection would stand violated or unfulfilled.

It is also pertinent to mention that in other states like Gujarat and Chhattisgarh, the billed demand is calculated as Maximum Demand recorded during the month or 75% of Contract Demand or minimum threshold contract demand for taking HT Supply, whichever is higher.

As the submissions by JBVNL in their supplementary submission have not been dealt in the current Tariff Order dated 01.10.2020, the Hon'ble Commission is again requested to amend the said clause to the extent "The Billing Demand shall be the Maximum Demand recorded during the month or 75% of Contract Demand or 101KVA, whichever is higher.

2.5 *Introduction of Per Bulb Tariff in case of Street Lights consumers where meter cannot be installed.*

It is submitted that JBVNL filed supplementary submission vide Letter No 458/CE(C&R) dated 19.03.2020 to the petition filed by JBVNL for True-Up of FY 2018-19, Annual Performance Review of FY 2019-20 and Determination of ARR and Tariff for FY 2020-21 wherein, JBVNL prayed before the Hon'ble Commission to either approve load based tariff for Street light considering 50% load factor as street lights are switched on for average duration of 12 hours only or Tariff approved for street light as per the Tariff order dated 27th April 2018 regarding Tariff order for FY 2017-18 and FY 2018-19 may be retained which was Rs 500 per 100 watt/month. This is due to the fact that at times it is not practical to install meters at streetlight poles due to availability of space.

As the above submissions of the petitioner have not been dealt in the Tariff Order dated 01.10.2020, the Hon'ble Commission is again requested to approve the Tariff as prayed in the supplementary petition.

2.6 *Reduction in Fixed Charges*

It is submitted that in the Impugned Tariff Order dated 01.10.2020, the minimum hours of supply for the HT consumers has been revised to 23 hours. In this regard, it is submitted that increasing the minimum hours of supply for HT consumers is impractical. As keeping in view the existing electrical infrastructure, it would be extremely difficult for JBVNL to provide 23 Hours of supply. It is also assured JBVNL is making endeavours to provide 24 X 7 Supply to all consumers. Once, the electrical network for the same is ready, the Hon'ble Commission may revise the minimum hours of supply to 23 Hours. It is also pertinent to mention that Bihar which is the first state to implement the same has also 21 Hours as minimum hours of supply as per the Tariff Order for FY 2020-21.

The Hon'ble Commission in impugned Tariff Order dated 01st October 2020 for the FY 2020-21 has stated that recovery of Complete Fixed/Demand Charges from consumers shall be based on the availability of hours of supply recorded by meters installed in the consumer's premises. JBVNL needs to include the same in the consumers bill and recover the Fixed Charges only in proportion to the hours of supply as per the meter. The cut off hours for complete recovery from Fixed/Demand Charges shall be 21 hours per day for LT consumers and 23 hours per day for HT Consumers.

Further Hon'ble Commission in said Order has rightly provided that the planned outages/Rostering in the network that are uploaded on its website seven days in advance with a copy to the Commission and intimation to the respective consumers shall be excluded while computing scheduled supply hours.

JBVNL also submits that Hon'ble Commission may also consider excluding interruption in supply due to grid failures (both inter and intra-state) as well as electricity supply cut to avoid accidents due to sudden change in weather conditions such as hail storm or intense rainfall for computing scheduled supply hours and not consider these for reduction in fixed charges as these conditions are outside controllability of JBVNL.

2.7 Arithmetical error in Power Procurement Table for FY 2019-20

JBVNL submits that in Table 62 of impugned Order regarding 'Power Purchase Cost approved by the Commission' for FY 2019-20, there are computational error in approved power purchase quantum. JBVNL humbly requests Hon'ble Commission to kindly correct the same.

3. Prayer

In view of the aforesaid mentioned facts, the petitioners most respectfully pray the Hon'ble Commission to:

(a) *To revise the revenue Gap of FY 2018-19, FY 2019-20 and FY 2020-21 to the extent that the Loss taken over considered by the Government of Jharkhand are not considered as revenue in the respective years.*

(b) *To revise the Power Purchase cost of DVC and allow the additional amount as revenue gap.*

(c) *To revise the Non-Tariff Income to the extent that the revenue on the account of meter rent is not considered in Non-Tariff Income.*

(d) *To revise the definition of Billing demand in case of HT Consumers.*

(e) *To introduce per bulb tariff for street light consumers.*

(f) *Review and modify the Tariff Order for True-Up for FY 2018-19, Annual Performance Review for FY 2019-20, Aggregate Revenue Requirement and Tariff for FY 2020-21 for JBVNL, dated, 1st October, 2020 to the extent of the submissions made by the petitioner in the present review petition.*

(g) *To not consider interruption in supply due to grid failure and interruptions to avoid accidents due to sudden change in weather conditions such as hail storm or intense rainfall for computing scheduled supply hours and not consider these for reduction in fixed charges*

(h) *TO review and correct Table 62 of impugned Order*

(i) *To allow the petitioner make any additional/supplementary submission in addition to the review petition filed against the impugned order.*

(j) *Condone any inadvertent omissions/errors/shortcomings, permit the appellant (JBVNL) to add/change/modify/alter this filing and make further submissions as may be required at a future date.*

(k) *To condone any delay in filing the petition due to reasons unavoidable by the Discom.*

(l) *To pass necessary order.*

BY THE APPLICANT THROUGH

Authorized Signatory

Jharkhand Bijli Vitran Nigam Limited (JBVNL)

Ranchi