



BIHAR ELECTRICITY REGULATORY COMMISSION

Case No. TP - 12 of 2011

**Order on Truing up of
FY 2009-10
for
Bihar State Electricity Board (BSEB)**

27th January, 2012

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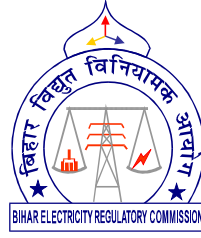
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List of Abbreviations

A&G	Administration and General
ABT	Availability Based Tariff
Act	Electricity Act, 2003
AG	Auditor General
ARR	Aggregate Revenue Requirement
BERC	Bihar Electricity Regulatory Commission
BHEL	Bharat Heavy Electrical Limited
BHPC	Bihar State Hydro Power Station
BIFR	Bureau of Industrial and Financial Reconstruction
BSEB	Bihar State Electricity Board
BTPS	Barauni Thermal Power Station
CAGR	Compounded Annual Growth Rate
CAPEX	Capital Expenditure
CEA	Central Electricity Authority
CERC	Central Electricity Regulatory Commission
CGS	Central Generating Station
Ckt km	Circuit kilometres
CMD	Contract Minimum Demand
CPSU	Central Public Sector Undertaking
D/C	Double Circuit
DPS	Delayed Payment Surcharge
DS	Domestic Service
DSM	Demand Side Management
DT	Distribution Transformer
EA 2003	Electricity Act, 2003
ERLDC	Eastern Region Load Despatch Centre
ERPC	Eastern Region Power Committee
FC	Fixed charges
FPPCA	Fuel and Power Purchase Cost Adjustment
FY	Financial Year
GFA	Gross Fixed Asset
GFA	Gross Fixed Asset
HP	Horse Power
HT	High Tension
HTSS	High Tension Specified Service
JSEB	Jharkhand State Electricity Board
KBUNL	Kanti Bijlee Utapadan Nigam Limited

kCal	Kilo Calorie
KJ	Kutir Jyoti
KL	Kilo Litre
kVA	Kilo Volt Ampere
kVAh	Kilo Volt Ampere Hour
kWh	Kilo Watt hour
LT	Low Tension
ml	Millilitre
MMC	Monthly Minimum Charge
MoP	Ministry of Power
MT	Million Tonne
MUs	Million Units
MVA	Mega Volt Ampere
MW	Mega Watt
MYT	Multi-Year Tariff
NDS	Non Domestic Service
NEP	National Electricity Policy
NFA	Net Fixed Asset
NHPC	National Hydro Power Corporation
NTPC	National Thermal Power Corporation
O&M	Operation and Maintenance
O/H	Over Head
PGCIL	Power Grid Corporation of India Limited
PLF	Plant Load Factor
PWW	Public Water Works
R&M	Repair and Maintenance
RE	Revised Estimates
REA	Regional Energy Accounting
RGVY	Rajiv Gandhi Grameen Vidyutikaran Yojna
RLDC	Regional Load Despatch Centre
RoE	Return on Equity
S/C	Single Circuit
SAC	State Advisory Committee
SERC	State Electricity Regulatory Commission
SS	Sub-station
ToD	Time of Day
TP	Tariff Policy
TPS	Thermal Power Station
UI	Unscheduled Interchange
ULF	Utilization Load Factor
USO	Universal Service Obligation



Bihar Electricity Regulatory Commission
Ground Floor, Vidyut Bhawan – II
Jawahar Lal Nehru Marg, Patna – 800 021
Case No. TP - 12 of 2011

In the matter of:

Truing up of Aggregate Revenue Requirement (ARR) for the Financial Year 2009-10 for Bihar State Electricity Board.

And

Bihar State Electricity Board Petitioner

Present :

U.N. Panjiar	–	Chairman
R. N. Sharma	–	Member
S. C. Jha	–	Member

ORDER

(Passed on 27th January 2012)

The Commission in exercise of the powers vested in it under Section 61, Section 62 read with Section 64 of the Electricity Act, 2003 (EA, 2003) and the provisions of the Bihar Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2007 (hereinafter referred to as “BERC Tariff Regulations” or “Tariff Regulations”) issued by the Commission and all the other powers and provisions enabling it in this behalf, and after taking into consideration all the submissions made by Bihar State Electricity Board (BSEB or Board), all the objections, responses of BSEB, issues raised during the Public Hearing, and all other relevant material, and after review of Truing up petition filed, issues this order, for truing up of ARR of Bihar State Electricity Board for the FY 2009-10.

The Tariff Regulations specify that the Commission shall undertake a “Review” along with next Tariff Order, of the expenses and revenues approved by the Commission in the current year Tariff Order. After audited accounts of the year are made available, the Commission shall undertake a similar exercise (similar to “Review”) based on the final actual figures as per the audited accounts and shall be called ‘Truing up’. The truing up exercise for any year shall not ordinarily be considered after more than one year gap after ‘Review’. The Revenue gap of next year shall be adjusted as a result of Review and Truing up exercises. Accordingly, the “Review” for FY 2009-10 should have been carried out in the Tariff Order for FY 2010-11 and the “Truing Up” should have been carried out in the Tariff Order for FY 2011-12. The regulatory timetable in this regards was not adhered to by BSEB and the Commission directed BSEB to file a consolidated petition for true-up of ARR for FY 2006-07, FY 2007-08, FY 2008-09 and review of ARR for FY 2009-10 and FY 2010-11 within three months from the date of issue of Tariff order for FY 2011-12.

Bihar State Electricity Board filed the true up petition before the Commission for truing up of Aggregate Revenue Requirement (ARR) for FY 2006-07, FY 2007-08 & FY 2008-09 on which the Commission has already passed True up Order on 4th January 2012. This petition has been filed for truing up of ARR for FY 2009-10 based on the audited accounts of BSEB on 13th October 2011 vide letter No. - Com / FPPCA-136 / 2011- 1659. The Commission took into consideration the facts presented by BSEB in its tariff petitions and subsequent filings, the objections/suggestions received from stake holders, consumer organizations, general public and response of the Bihar State Electricity Board to those objections/suggestions. The Commission, to ensure transparency in the process of the truing up of the revenues and expenses, conducted public hearings at Patna on 20th December, 2011 and 11th January, 2012 providing opportunity to the stakeholders and members of the public to discuss the issues raised by them and response of the Board. The Commission has taken into consideration all the facts which came up during the public hearing, other relevant facts and materials placed on the record by the Board and verification of the technical and financial data on the basis of the records of BSEB made available during the regulatory process for the purpose of issuing this Truing up Order.

The Commission had earlier included Delayed Payment Surcharge (DPS) in the non-tariff income in all the tariff orders. However, in view of recent judgement of Hon’ble Appellate Tribunal for Electricity (APTEL) dated 12.07.2011 in Case no 142 & 147 of 2009 the Commission has decided to consider the DPS in Non-Tariff Income after adjustment of carrying cost on corresponding arrear as per the judgement of Hon’ble Appellate Tribunal for Electricity.

BSEB has proposed to include resource gap grant received from the State Government in receivables for the purpose of calculation of working capital. The State Government makes payment directly to NTPC for power sold by NTPC to BSEB and treats this amount as resource gap grant to BSEB. BSEB does not have to arrange working capital for payment to NTPC the amount which is paid directly by the State Government to NTPC. Therefore the payment made by the State Government directly to NTPC has not been included in receivables of BSEB for the purpose of calculation of working capital requirement.

BSEB has referred to letter dated 19/9/2011 received from the Energy Department, Government of Bihar regarding the treatment of resource gap grant received from the State Government. The State Government has issued a clarification that the resource gap grant released by the State Government to BSEB will first be used to compensate the financial losses caused to BSEB due to difference in the actual T&D loss and the T&D loss as determined/ approved by the Commission and the remaining portion of the grant will be used as subsidy to agriculture and rural consumers. The state Govt. has also clarified that same treatment will apply to resource gap grant released by the Govt. in the past. In its True-up petition BSEB has requested the Commission to allow the resource gap funding to BSEB by the State Government to be first used to compensate BSEB for the loss suffered by BSEB on account of the difference in the actual T&D loss and the T&D loss as determined by the Commission. The Commission has considered this proposal and observed that the resource gap grant received from the State Government has always been proposed by BSEB to be used for reducing the net revenue gap. This has the effect of reducing the average tariff and subsidising all categories of consumers in the State. Accordingly, the Commission has also been passing the benefit of the resource gap grant received from the State Government to all categories of consumers in its tariff orders issued upto FY 2011-12. A subsequent letter dated 19/9/2011 of the State Government received after the issue of tariff orders cannot be used to withdraw the effect of government grant already passed on to the consumers. Therefore, the Commission has not allowed the prayer of BSEB in this regard.

BSEB in its True-up petition has also claimed Return on Equity @ 14% on the capital grant provided by the State Government. Return is admissible only on equity actually deployed for the creation of asset. Since BSEB has not been corporatized, it does not have any equity and the Commission has considered entire asset funded through loan and grant, accordingly interest has been allowed on loan. Therefore, the Commission has not accepted the prayer of BSEB in this regard.

BSEB has claimed carrying cost on the revenue gap resulting from the true up exercise, however the Commission feels that the burden of carrying cost resulting from delay in filing

of the true up petition by BSEB should not be passed on to the consumers. Normally the true up petition for FY 2009-10 should have been filed along with the tariff petition for FY 2011-12 in which case carrying cost for one and a half year would have been allowed. Accordingly, the Commission has allowed carrying cost for the period of one and a half year.

Based on the detailed analysis of the information and data submitted by BSEB and after following the aforesaid mentioned process prior to issuing of the truing up order, the Commission has approved the following revenue gap for the FY 2009-10 along with the carrying cost for adjustment in the ARR and Tariff for the FY 2012-13.

Table 1: Approved Revenue Gap (Rs. Cr.) for adjustment in the ARR of FY 2012-13

Sl.	Particulars	Amount (Rs. Cr.)
1.	Revenue Gap	
	- Approval Sought by BSEB	947.17
	- Now Approved in True-up	232.28
2.	Carrying Cost Approved	42.39
3.	Total Revenue Gap Carried Forward in FY 2012-13	274.67

The trued up Revenue Gap approved by the Commission for the FY 2009-10 as a part of the truing up exercise is Rs. **274.67** Cr. The impact of the truing up exercise undertaken by the Commission will be taken into consideration at the time of issue of the Tariff order of subsequent year i.e. FY 2012-13.

(S. C. Jha)
Member

(R. N. Sharma)
Member

(U. N. Panjiar)
Chairman

1 Background

1.1 Bihar Electricity Regulatory Commission (BERC)

1.1.1 The Bihar Electricity Regulatory Commission (herein after referred to as "Commission" or "BERC") was constituted by the Government of Bihar under Section 17 of the Electricity Regulatory Commission Act, 1998 vide Government of Bihar notification No.1284 dated 15th April 2002. The Electricity Regulatory Commission Act, 1998 along with Indian Electricity Act, 1910 and Electricity (Supply) Act, 1948 was repealed by Section 185 (1) of the Electricity Act, 2003 (herein after referred to as the "Act" or "EA 2003"). The first proviso of Section 82 (1) has ensured continuity of the Bihar Electricity Regulatory Commission by laying down that the State Electricity Regulatory Commission established by the State Government under Section 17 of Electricity Regulatory Commission Act, 1998 and functioning as such, immediately before the appointed date, shall be the State Electricity Regulatory Commission for the purpose of the Act.

1.2 Functions/Powers of BERC

1.2.1 The State Commission shall discharge the following functions, namely

- a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State: Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;
- b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;
- c) facilitate intra-state transmission and wheeling of electricity;
- d) issue licences to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;

- e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licence;
- f) adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration;
- g) levy fee for the purposes of this Act;
- h) specify State Grid Code consistent with the Indian Electricity Grid Code specified with regard to grid standards;
- i) specify or enforce standards with respect to quality, continuity and reliability of service by licensees;
- j) fix the trading margin in the intra-state trading of electricity, if considered, necessary; and
- k) discharge such other functions as may be assigned to it under this Act.

1.2.2 The State Commission shall advise the State Government on all or any of the following matters, namely

- a) promotion of competition, efficiency and economy in activities of the electricity industry;
- b) promotion of investment in electricity industry;
- c) reorganization and restructuring of electricity industry in the State;
- d) matters concerning generation, transmission, distribution and trading of electricity or any other matter referred to the State Commission by State Government.

1.3 Chronology of the filing of tariff petition and Issue of Tariff Orders

1.3.1 BSEB had submitted its first ARR and tariff petition for the FY 2006-07 on 10th April, 2006. The Commission passed the tariff order on this petition on 29th November, 2006.

1.3.2 BSEB submitted its ARR and tariff petition for FY 2007-08 on 18th December, 2007. The Commission vide letter no. BERC.Tariff-9/07-03 dated 2nd January 2008 directed BSEB to file the ARR before the Commission for FY 2008-09 along with data as prescribed by the Commission in the Tariff Regulations, 2007 by 31st January 2008, as a result there was no ARR approved for FY 2007-08.

- 1.3.3 BSEB submitted its ARR and tariff petition for FY 2008-09 on 14th February, 2008. The tariff order for this petition was passed by the Commission on 26th August, 2008. The Commission also undertook the "Review" for FY 2006-07 during the Tariff order for FY 2008-09.
- 1.3.4 BSEB had also filed its tariff petition for the FY 2009-10 on 9th October 2009 for determination of ARR and approval of retail tariff proposal. However, due to delay in filing of the ARR/ tariff petition for FY 2009-10, the Commission instructed BSEB to file the tariff petition for the FY 2010-11. In view of the same, there was no approval of the ARR for FY 2009-10.
- 1.3.5 BSEB then submitted its ARR and tariff petition for FY 2010-11 before the Commission on 3rd February, 2010. The Commission passed the tariff order for FY 2010-11 on 6th December, 2011. The Commission also undertook the "Review" for FY 2008-09 during the Tariff order for FY 2010-11.
- 1.3.6 BSEB then submitted its ARR and tariff petition for FY 2011-12 before the Commission on 17th February, 2011. The Commission passed the tariff order for FY 2011-12 on 1st June, 2011.
- 1.3.7 The True-up petition for FY 2006-07, FY 2007-08 and FY 2008-09, based on the audited accounts of BSEB, was filed by BSEB on 01st September 2011. The addendum to this True-up petition was filed by BSEB on 17th October 2011. The Commission passed its first truing up order for FY 2006-07, FY 2007-08 and FY 2008-09 on 4th January 2012.
- 1.3.8 BSEB has filed the True-up petition for FY 2009-10 on 13th October, 2011.
- 1.3.9 This is the truing up order for FY 2009-10 being issued by the Commission for BSEB based on the audited annual accounts being made available by BSEB.

1.4 Procedural History of truing up petition for FY 2009-10

- 1.4.1 As per the BERC (Terms and Conditions of Determination of Tariff) Regulations, 2007, the ARR for the years for which audited accounts are available can be trued-up.

- 1.4.2 In compliance to the above directive, the True up petition was filed by BSEB vide letter No. - Com / FPPCA-136 / 2011- 1659 dated 13th October 2011 for approval of the true up of Annual Revenue Requirement (ARR) for FY 2009-10.
- 1.4.3 For providing adequate opportunity to all stakeholders and general public for making suggestions/ objections as mandated under section 64(3) of the Act, the Commission vide its letter No. BERC- Tariff – 18/ 11 - 676 dated 20th October 2011 directed the BSEB to publish the True up Petition for FY 2009-10 in an abridged form in shape of a public notice in at least two daily newspapers, one in English and the other in Hindi with wide circulation in the state, inviting objections and suggestions on the true up petition. To ensure maximum participation from all the stakeholders and general public the true-up petition was also placed on BSEB website (<http://www.bseb.bih.nic.in/Notices.htm>) and copies of the petition were also made available in the office of the Chief Engineer (Commercial), BSEB Patna. The true up petition for the FY 2009-10 in abridged form was published as public notice in different newspapers as mentioned in the table below:

Table 2: Schedule of issue of Public Notice in various newspapers

Sl.	Name of News Paper	Date of Publication
1	Times of India, Patna (English)	28 th October 2011
2	Hindustan, Patna (Hindi)	26 th October 2011

- 1.4.4 The last date of submission of comments was fixed as 21st November 2011. Initially, the public hearing on true up petition for FY2009-10 was scheduled to be held on 14th December 2011 at 11.00 am in the Commission's office. However, the date of public hearing was later on extended from 14th December 2011 to 20th December, 2011 vide letter No BERC-Tariff-18/11 – 758 dated 22.11.2011.
- 1.4.5 Comments and suggestions were received from two consumers/ consumer associations and general public up to due date. The list of persons/ organizations whose suggestions/ comments have been received is as given in the table below:

Table 3: List of Consumers/ Consumer Organizations

Sl.	Name of News Paper	Date of Receipt
1	Dina Iron & Steel Ltd., Patna	20 th December 2011
2	Bihar Industries Association, Patna	20 th December 2011

- 1.4.6 The Public Hearing was held on 20th December 2011 in the office of the Bihar Electricity Regulatory Commission, Ground Floor, Vidyut Bhawan-II, Bailey Road,

Patna – 800 021. The list of participants in the public hearings held on 20th December 2011 is given in the table below:

Table 4: List of Participants in Public Hearing held on 20th December 2011

Sl. Name and address of Participants	
Consumers/ Associations	
1	Shri S.K. Patwari, Representative, Bihar Steel Manufacturing Association
2	Shri U.K. Poddar, Co-Chairman, Power Sub-Committee, Bihar Industries Association
3	Shri Sanjay Bhartiya, Director, Dina Iron and Steel Ltd.
Bihar State Electricity Board Representatives	
4	Shri S.K. Singh, Chief Engineer, BSEB
5	Shri L.N. Choudhary, ESE (Tariff), BSEB
6	Shri Naresh Desai, Consultant, BSEB

1.4.7 BSEB was given an opportunity to present its case before the Commission and the consumers/Consumers Association who were present for the public hearing. BSEB presented its case through audio-visual presentation explaining the proposals in the True up petition for FY 2009-10. BSEB prayed for time for submission of written responses to the queries and objections raised by the consumers/Consumer Associations. The Commission directed BSEB to submit the same at the earliest. The Commission during the public hearing process examined certain issues pertaining to the submissions of BSEB and the basis for seeking certain approvals. During this hearing itself the Commission fixed the time for the next round of hearing on 11th January 2012.

1.4.8 BSEB submitted its written responses to the queries raised by the consumers vide letter no. Com/ Pet-136/ 2011-2060 dated 27th December, 2011. The same has been discussed in detail in the Chapter 2 of this Truing up Order for FY 2009-10.

1.4.9 The second round of hearing on true-up petition for FY 2009-10 was conducted on 11th January 2012 in which the Commission sought additional information/ clarification from the Board. The list of participants in the public hearing held on 11th January 2012 is given in the table below:

Table 5: List of Participants in Public Hearing held on 11th January 2012

Sl. Name and address of Participants	
Consumers/ Associations	
1	Shri Sanjay Bhartiya, Representative, Bihar Chamber of Commerce (BCC)
2	Shri U.K. Poddar, Co-Chairman, Power Sub-Committee, Bihar Industries Association
3	Shri P.K. Chaubey, Representative, Kalayanpur Cement Ltd.

Sl. Name and address of Participants	
Bihar State Electricity Board Representatives	
4	Shri N.K. Jha, Director (Expense), BSEB
5	Shri L.N. Choudhary, ESE (Tariff), BSEB
6	Shri Naresh Desai, Consultant, BSEB
7	Shri Saurabh Garg, Consultant, BSEB

1.4.10 BSEB representatives responded to the same and also agreed to provide certain information which was not available with the Commission. Accordingly, the Commission vide its letter no. Letter No. BERC- Tariff- 18 / 11 – 38 dated 11th January 2012 asked for certain information and clarifications from BSEB to enable the Commission to consider the petition.

1.4.11 Subsequently, the BSEB submitted its response to the queries raised by the Commission vide letter No. Com/Pet-136/2011-147 dated 20.01.2012. The Commission's observations on the information submitted by BSEB are captured in later parts of the order.

1.4.12 Based on the process adopted as outlined above, the Commission now issues its order in the matter related to Truing up of the ARR for BSEB for the FY 2009-10.

1.5 Structure of the Order

1.5.1 This order is organised into the following chapters namely:

- **Chapter 1: Background** – Covers the background of the entire process along with details of the process adopted by the Commission prior to issuing of the Truing up order for BSEB and the approach being adopted by the Commission for the process of truing up.
- **Chapter 2: Response from stakeholders** - Provides a detailed account of the Public Hearing process, including the comments of various stakeholders, the Petitioner's responses and views of the Commission;
- **Chapter 3: True up for FY 2009-10** - Deals with the True Up of expenses for FY 2009-10;
- **Chapter 4: Summary of Order** - Summarises the Revenue gap to be carried forward, it's likely impact on the subsequent ARR and the way forward

1.6 Approach for the FY 2009-10 True-Up Order

1.6.1 The section 22 (2), 22 (3) and 22 (4) of the BERC (Terms and Conditions for determination of Tariff) Regulation, 2007 provides the following:

“22. Review and Truing up

(2) After audited accounts of the year are made available, the Commission shall undertake a similar exercise as in sub-clause (1) above based on the final actual figures as per the audited accounts.

This exercise based on the audited accounts shall be called ‘Truing up’. The truing up exercise for any year shall not ordinarily be considered after more than one year gap after ‘Review’.

(3) The Revenue gap of next year shall be adjusted as a result of Review and Truing up exercises.

(4) While approving adjustments towards revenue / expenses in future years, arising out of Review / Truing up exercises, the Commission may allow the carrying costs as determined by the Commission of such expenses / revenues, Carrying costs shall be limited to the interest rate approved for working capital borrowings.”

1.6.2 The above mentioned provisions of the Tariff Regulations issued by the Commission form the basis for undertaking the truing up of the ARR for the FY 2009-10 under consideration.

1.6.3 BSEB had submitted its ARR and tariff petition for FY 2009-10 on 9th October 2009 for determination of ARR and approval of retail tariff proposal. However, due to delay in filing of the petition for FY 2009-10, the Commission instructed BSEB to file the ARR/ tariff petition for the FY 2010-11. As a result, there was no approval of the ARR for FY 2009-10. In view of the same, the Commission will approve the expenses for FY 2009-10 based on audited annual accounts for FY 2009-10 as provided by BSEB. However, wherever deemed necessary, the Commission may permit expenses based on prudence check and after considering the efficiency parameters like T&D losses, generating stations plant operating parameters, etc. While the consumers have raised issues with regard to the delay of the filing, the views of the Commission in the matter are discussed in subsequent chapters.

2 Response from Stakeholders

2.1 Introduction

2.1.1 Public hearing being a platform to understand the problems and concerns of various stakeholders, the Commission has always encouraged transparent and participative approach in the hearings, which are used to obtain necessary inputs from all stakeholders required for tariff determination.

2.1.2 The public hearings were held in the Commission's Court Room at Patna on 20th December, 2011 and 11th January, 2012 to discuss the issues related to the Petition filed by the Petitioner for True Up of expenses for FY 2009-10. In the Public hearing stakeholders put forth their comments/suggestions before the Commission in the presence of the Petitioner. The Petitioner was given an opportunity to respond to the comments put forth by the stakeholders.

2.1.3 The Commission has examined the issues and concerns raised by various stakeholders in their written comments as well as in the Public hearing and also the response of the Petitioner thereon. The comments/ suggestions submitted by various stakeholders in response to the True-up Petition, the replies given by the Petitioner and the views of the Commission have been summarized under various sub-heads as below:.

2.2 Stakeholders Suggestions/ Objections, BSEB's Response & Commission's Observations

2.2.1 Issue 1: Genuine and uncontrollable expenses are allowed in Review and True-up Exercise

Bihar Industries Association and Dina Iron and Steel limited submitted that Review and Truing up exercise is meant only to verify the genuine and uncontrollable expenses that may be incurred by the licensee. The principles and norms laid down during ARR fixation are to be adopted.

Petitioner's submission

The BSEB has submitted true-up petition as per the Terms and Conditions for determination of Tariff, Regulations 2007. The BSEB has submitted its actual expenses for determination of Aggregate Revenue Requirement and actual income to arrive at Revenue Gap.

Commission's observation

The Commission has dealt with the truing up process in line with the Terms and Conditions for determination of Tariff, Regulations 2007. However, wherever deemed necessary, the expenses have been re-examined and approved based on the basis as outlined in the order.

2.2.2 Issue 2: Interest on Working Capital is asked twice under the heads Interest & Financial Charges and Interest on Working Capital

Bihar Industries Association and Dina Iron and Steel Limited also submitted that the interest on working capital is included under the interest and finance charges and separately as well which is double counting. Hence, the same has to be disallowed.

Petitioner's submission

The BSEB has submitted that the contention of the Objector is not correct. The BSEB has clearly mentioned in its petition that interest & financial charges are sought for the fund raised for capital expenditure. The BSEB has identified loans in terms of their usage for capital expenditure or working capital requirement. Only Interest incurred on loans for meeting capital expenditure has been considered under interest & financial charges head in the petition. Interest on loans for meeting working capital is based on the normative parameters provided in the terms and condition for determination of tariff, regulation 2007.

Commission's observation

The Commission has examined the claim of BSEB regarding the interest and finance charges in subsequent chapters and ensured that the interest on working capital borrowings is not approved as part of the interest and finance charges. Interest on Working Capital has been approved separately on a normative basis as specified in the BERC Tariff Regulations 2007. Further, the expenses permitted for recovery by BSEB is based on the provisions of the Tariff Regulations and accordingly, the same

may or may not reflect in the financial accounts of BSEB in the same form e.g. Return on equity, normative interest on working capital, etc.

2.2.3 Issue 3: Treatment of Resource Gap Funding

Bihar Industries Association submitted that the Govt. grant should not be treated differently from the one fixed in the original ARR fixation. The objector is of the opinion that no change of norms can be made during truing up exercise. The BIA also submitted that from the very beginning amount of Govt. grant is being paid directly to NTPC and is meant for power purchase. Also all ARR and tariff till date have been fixed taking Govt. grant as resource gap grant; and the reason behind increasing the Govt. grant from Rs. 60 Cr. to Rs. 90 Cr. was on account of increase in power purchase cost due to use of imported coal by NTPC..

Petitioner's submission

The Hon'ble Commission while determining Aggregate Revenue Requirement (ARR) of BSEB had/has fixed the T&D loss achievement target for each financial year while actual losses of BSEB have always remained much higher than the prescribed T&D trajectory of losses due to various reasons including the fact that large number of consumers of BSEB are unmetered or are having defective meters. Further, dilapidated distribution network of BSEB have contributed to higher T&D losses of BSEB. Any increase in the quantum of power purchase also has led to enhanced T&D losses for BSEB. Massive and large scale electrification of villages under RGGVY scheme leading to expansion of rural distribution network too has contributed to a large extent to the T&D losses of BSEB.

The Hon'ble Commission in its Tariff Order for FY 2011-12 dated 1st June, 2011 in point no. 4.3.3 mentioned that if BSEB is not able to achieve T&D loss trajectory because of government sponsored schemes then it should ask for subsidy to compensate for the increased T&D losses. BSEB has mentioned that resource gap funding is given for the same.

The Energy Department has in its letter no. 4208 dated 19/09/11 clarified priorities for use of this resource gap funding. This resource gap funding will be first used to fulfil financial losses arising on account of actual T&D losses as against approved T&D losses. Remaining amount of resource gap funding will be used for providing subsidy to Agriculture and Rural area consumers.

Commission's observation

The Commission has examined the contention of the Board and is not in agreement with the proposed post-facto adjustment of the revenue resource gap during the truing up process. The Commission is also in receipt of the copy of the letter from the Energy Department, Govt. of Bihar dated 19/9/11 outlining the priority of use of the resource gap funding provided by the Govt. to BSEB. Further, the revenue resource gap has always been proposed by the Board for reducing the net deficit in the ARR and thus subsidising all the consumers. The Commission had also aligned its approach with the suggestion of BSEB and accordingly has already passed on the benefit of the resource gap received from the GoB to the consumers in the past tariff orders and True up order for the period of FY 2006-07 to FY 2008-09. The letter from GoB received in the past in this regards also did not mention the priority of usage as outlined in the latest letter dated 19/09/11 and only mentioned that the support is being made available for payment of dues of NTPC against power purchase. Accordingly, the Commission retains the amount of Rs 840 Cr. as revenue subsidy for the purpose of truing up of the ARR's for FY 2009-10.

2.2.4 Issue 4: Interest on Working Capital and Return on Equity are not reflecting in Annual Accounts

Bihar Industries Association and Dina Iron and Steel Limited submitted that none of the extra revenue sought by the licensee reflects in the balance sheet of BSEB and hence should not be considered. e.g. Interest on working capital, return on equity, etc.

Petitioner's submission

As per the Terms and Conditions for Determination of Tariff, Regulation 2007, interest on working capital and return on equity is calculated based on the normative parameters for calculation of Aggregate Revenue Requirement. The interest on loans taken for meeting working capital requirement is provided in schedule 12 of the Financial Accounts.

Commission's observation

The Commission is also of the view that some of the elements in the ARR like Interest on Working Capital, return on equity are calculated on normative basis as per the provisions of the BERC Tariff Regulations and permitted to be recovered as

part of the licensees ARR. Accordingly, the same would not be reflecting directly in the annual accounts of BSEB.

2.2.5 Issue 5: Issuance of Tariff Order

Bihar Industries Association and Dina Iron and Steel Limited submitted that as the present truing up proceedings will affect the tariff petition; so the Commission is requested to issue all the truing up orders along with the tariff order for 2012-13.

Petitioner's submission

The Hon'ble Commission is requested to keep truing up Orders and Tariff Order for FY 2012-13 separate. Even though the financial implication of the truing up exercise will be passed on in Tariff Order of FY 2012-13 only, it is desirable that both the orders should be issued separately for ease of applicability.

Commission's observation

The Commission understands the concerns of the consumer groups and BSEB both, However as the truing up exercise of BSEB is overdue, the Commission is processing the true up order for FY 2009-10 and Tariff Order for FY 2012-13 separately.

2.2.6 Issue 6: List of objections on trueing up petition for FY 2009-10, which were also raised on trueing up petition for FY 2006-07, FY 2007-08 & FY 2008-09, as below:

- Availability of surplus with BSEB as a result of True-up for FY 2006-07, FY 2007-08 and FY 2008-09;
- Extra expenditure claimed under various expenditure heads of ARR;
- Variation in the numbers presented by BSEB in the True-up petition for FY 2006-07 when the review was also undertaken based on Audited and Final figures of BSEB
- BSEB should be barred from filing of the True-up petition for FY 2007-08 on account of its failure to file the ARR & Tariff petition for FY 2007-08;
- Transmission and Distribution losses;
- Employees Cost;
- Interest and Finance Charges;
- Return on Equity;
- Interest on Working Capital;
- Reduction of Non-tariff income;
- Grant from State Government;
- Collection of Revenue;

Bihar Industries Association and Dina Iron and Steel Limited submitted that all the issues raised for truing up of FY 2006-07, FY 2007-08 and FY 2008-09 may be considered for FY 2009-10.

Petitioner's submission

The BSEB has already submitted its replies to the objections raised for the truing up petition for FY 2006-07, FY 2007-08 & FY 2008-09. The Hon'ble Commission should take appropriate decision for truing-up order of FY 2009-10 based on the replies submitted for objections raised for truing up of FY 2006-07, FY 2007-08 & FY 2008-09.

Commission's observation

The Commission while analyzing the true up petition for FY 2009-10 would take appropriate decision based on the responses of the petitioner on the relevant matters and on the basis of the Terms and Conditions for determination of Tariff, Regulations 2007.

2.2.7 Issue 7: Principles laid down for FY 2008-09 should be applied to FY 2009-10

Bihar Industries Association submitted that as no ARR has been prepared for FY 2009-10, the Commission should apply the same principles as in case of true up of FY 2008-09.

Petitioner's submission

The Aggregate Revenue Requirement & Revenue Gap for FY 2009-10 is to be determined in accordance with the principles laid down in Terms and Conditions for Determination of Tariff, Regulations 2007 to workout Aggregate Revenue Requirement. The principles laid for FY 2008-09 cannot be applied for FY 2009-10 without taking into consideration the actual performance in FY 2009-10 along with the impact of uncontrollable factors that affected BSEB during that year.

Commission's observation

2.2.8 The Commission shall review the true up petition for FY 2009-10 in accordance with the principles laid down in Terms and Conditions for Determination of Tariff, Regulations 2007. However, the Commission while approving the actual performance

may examine the costs from reasonability and efficiency perspective and accordingly approve them as part of the true up exercise.

3 True up for FY 2009-10

3.1 Background

- 3.1.1 BSEB had submitted its ARR and tariff petition for FY 2009-10 on 9th October 2009 for determination of ARR and approval of retail tariff proposal. However, due to delay in filing of the petition for FY 2009-10, the Commission directed BSEB to file the ARR/ tariff petition for the FY 2010-11. As it would not have been possible for the Commission to issue the tariff for the FY 2009-10 before the end of the financial year; the Commission vide letter no. BERC. Tariff - 4/09-23 dated 19th January 2010 directed BSEB to file the ARR before the Commission for FY 2010-11 along with data as prescribed by the Commission in the Terms and Conditions for Determination of Tariff Regulations, 2007. In view of the same, there was no approval of the ARR for FY 2009-10.
- 3.1.2 The BSEB in its Petition has sought truing up of the expenditure and revenue for FY 2009-10. In this Chapter, the Commission has analysed BSEB's Petition in accordance with the principles laid down under Terms and Conditions for Determination of Tariff Regulations, 2007.
- 3.1.3 While the petition has been filed by BSEB seeking truing up of the expenses and revenues for FY 2009-10 based on the annual audited accounts, the Commission while approving the actual performance may examine the costs from reasonability and efficiency perspective and accordingly approve them as part of this exercise.
- 3.1.4 Accordingly, the Commission shall approve the expenses for FY 2009-10 after considering the audited annual accounts for FY 2009-10 as provided by BSEB. Further, wherever deemed necessary, the Commission may permit expenses based on prudence check and after considering the efficiency parameters like T&D losses, generation plant operating parameters, etc.
- 3.1.5 As per the BERC (Terms and Conditions of Determination of Tariff) Regulations 2007 the true up of ARR of previous year should be done when the audited accounts are available. Since the audited annual accounts of the Board for the FY 2009-10 are

available now the Commission has undertaken the truing up exercise for the FY 2009-10.

- 3.1.6 The Commission also takes into cognizance the delayed filing of the true-up petition for FY 2009-10 on account of various reasons including unavailability of the Audited Annual Accounts. The Commission will follow a methodology similar to that adopted in the true up Order for FY 2006-07, FY 2007-08 and FY 2008-09 dated 4th January 2012 and would ensure that the impact on account of delay in filing of the truing up petition in the form of higher quantum of carrying cost shall not be permitted to be passed on to the consumers.

3.2 Issue related to delayed filing of the True-up petition for FY 2009-10

- 3.2.1 The regulation 22 of the BERC (Terms and conditions for determination of Tariff) Regulation, 2007 states the following in the matter related to review and Truing up:

“22. Review and Truing up

(1) The Commission shall undertake a review along with next Tariff Order, of the expenses and revenues approved by the Commission in the current year Tariff Order. While doing so, the Commission shall consider variations between approvals and revised estimates / pre-actuals of the sale of electricity, income and expenditure for the relevant year and permit necessary adjustments / changes in case such variations are for adequate and justifiable reasons. Such an exercise shall be called ‘Review’.

(2) After audited accounts of the year are made available, the Commission shall undertake a similar exercise as in sub-clause (1) above based on the final actual figures as per the audited accounts. This exercise based on the audited accounts shall be called ‘Truing up’. The truing up exercise for any year shall not ordinarily be considered after more than one year gap after ‘Review’.”

- 3.2.2 As per the provision stated above, the review for FY 2009-10 should have been undertaken at the time of issue of the Tariff Order for FY 2010-11 and the truing up should have been carried out within a period of one year after the review i.e. at the time of issue of tariff order for FY 2011-12. BSEB has not adhered to this regulatory timetable and has delayed filing of the true-up for FY 2009-10 till FY 2011-12. One of the reasons for this delay is the unavailability of the audited annual accounts on time.

3.2.3 While the Commission believes that the additional cost on account of delay in filing of the truing up petition should not be passed on to the consumers, it is of the opinion that not carrying out the truing up exercise at all, as prayed by some of the consumers, may not be appropriate as BSEB is already in a poor financial position and dis-allowance of recovery of legitimate expenses identified as part of the truing up exercise will further worsen the situation for BSEB.

3.2.4 The BERC Tariff Regulations provide for the Commission to permit carrying cost on expenses which are trued up. The provision 22 (4) of the regulation in this regard is re-produced below:

“22(4) While approving adjustments towards revenue / expenses in future years, arising out of Review / Truing up exercises, the Commission may allow the carrying costs as determined by the Commission of such expenses / revenues, Carrying costs shall be limited to the interest rate approved for working capital borrowings.”

3.2.5 Accordingly, while the Commission is undertaking the truing up exercise for FY 2009-10, the impact on account of delay in filing of the truing up petition in the form of higher quantum of carrying cost shall not be permitted to be passed on to the consumers. The Commission while computing the allowable carrying cost shall ensure that the same is not passed on to the consumers.

3.2.6 The subsequent sections will outline the truing up process as adopted by the Commission for the FY 2009-10.

3.3 Category wise Sales

Petitioner's submission

3.3.1 The Petitioner submitted the energy sales figures of 6067 MUs and 5693 MUs for FY 2009-10 on the basis of annual accounts and as per Commission's norms respectively.

3.3.2 Further the petitioner has also submitted that in the tariff order for FY 2006-07 dated 29th November, 2006, the Commission had approved a consumption norm of 2000 kWh /kW / annum for private agriculture consumers and a consumption norm of 225 kWh / kW / month for government agriculture consumers. The Commission had also considered that 20% of the existing disconnected (not effective) consumers would

also avail supply and had accordingly considered their consumption in the approved sales figures.

3.3.3 The BSEB has computed the consumption by the agriculture consumers based on the norms and methodology used by Commission; accordingly, for the connected load of 209719 kW and based on the consumption norm of 2000 Units/kW/Annum as approved by the Commission, the agriculture sales for FY 2009-10 works out to 419 MUs.

3.3.4 The Commission vide letter No. BERC-Tariff-18/11-38 dated 11th January 2012 enquired about the energy sales under bilateral trade/ UI and sales to Nepal during FY 2009-10. The Commission also enquired about the source of connected load of the effective agriculture consumers for FY 2009-10 as mentioned in the petition. The Board vide letter No. Com/Pet-136/2011-147 dated 20.01.2012 has submitted that the annual account reflects the registered number of consumers and their connected load while the True up petition has been filled based on the effective number of consumers and their connected load, on which the total sales to agriculture consumers has been calculated. However, BSEB in the additional information has not submitted any source of the effective number of consumers and their connected load. On the matter of break-up of energy sales of 555.45 MUs, BSEB has submitted the month wise energy sale to Nepal and UI as shown below:

Table 6: Detail of Exchange of Power between BSEB & NEA for FY 2009-2010

Exchange Point	Voltage level	Total (As per BSEB)	
		Unit(Kwh)	Amount(Rs.)
A.EXPORT BY NEA			
Gandak/ Ramnagar	132kV	18,422,160	71,293,759
Birganj/ Raxul	33kV	39,902,920	164,842,353
Biratnagar/ Jogbani	11kV	12,581,200	55,934,644
Total		70,906,280	292,070,756
B.EXPORT BY BSEB			
Kataiya / Duhabi	132kV	369,083,200	1,411,257,480
Gandak East/ Gandak	132kV	3,016,560	11,674,087
Kataiya/ Biratnagar	33kV	926,200	3,838,604
Kataiya/ Rajbiraj	33kV	43,754,960	180,787,842
Sitamahri/ Jaleshwar	33kV	35,957,200	148,564,548
Total		452,738,120	1,756,122,561
NET (EXP-IMP)		381,831,840	1,464,051,805

Table 7: Detail of UI sale for FY 2009-2010

Month	Sale of Power	
	Units (MUs)	Amount (Rs. Cr.)
Apr'09	2.216	0
May'09	36.962	10.059
Jun'09	37.679	14.581
July'09	9.935	3.421
Aug'09	2.468	0.247
Sep'09	8.715	3.758
Oct'09	0	0.804
Nov'09	4.524	1.267
Dec'09	0	0
Jan'10	0	0
Feb'10	0	0
Mar'10	0.21	0
Total UI	102.71	34.137

Table 8: Energy sale to Nepal and UI during FY 2009-10

Month	Unit (MUs)
Nepal	452.74
UI	102.71
Grand Total	555.45

3.3.5 The petitioner has requested the Commission to approve the sales as per BERC norms which is 5693 MUs.

Commission's analysis

3.3.6 The Commission has scrutinized the commercial information with regard to the category wise sales submitted by the Petitioner for FY 2009-10. The energy sales quantum of the petitioner for FY 2009-10 as per its audited accounts was 6067.22 MUs. Accordingly, the sales to agriculture consumers as available in the audited annual accounts for FY 2009-10 have been re-worked based on the above mentioned methodology and the Commission approves the category-wise sales in FY 2009-10 at 5692.65 MUs in line with the request by the Board. The same would be used for approving the power procurement cost.

3.3.7 The following table summarises the category-wise sales for FY 2009-10.

Table 9: Summary of Category-wise Sales for FY 2009-10

Sl.	Category Name	Audited Annual Accounts	Actual audited - Agri as per BERC norms	Now Approved in True up
1	Domestic	1964.73	1964.73	1964.73
2	Commercial	470.19	470.19	470.19
3	Public Lighting	26.99	26.99	26.99
4	Irrigation and Agriculture	794.01	419.44	419.44
5	Public Water Works	143.49	143.49	143.49
6	Industrial LT	192.45	192.45	192.45
7	Industrial HT	1475.09	1475.09	1475.09
8	Railway Traction	444.82	444.82	444.82
9	Inter-state & UI	555.45	555.45	555.45
10	Total Sales	6067.22	5692.65	5692.65

3.4 Transmission and Distribution Losses

Petitioner's submission

3.4.1 The Table below summarises the overall T&D loss levels as submitted by the Petitioner for FY 2009-10:

Table 10: Proposed T&D losses for FY 2009-10

Particular	FY 2009-10 (Approved)	FY 2009-10 (Actual Accounts)	FY 2009-10 (Actual-BERC Norm)
T&D Losses (%)	35.00 %	38.32 %	42.58 %

3.4.2 In FY 2009-10, the T&D losses as per annual accounts were 38.32%. The BSEB has submitted that T&D losses work out to 42.58% if calculated as per the agriculture consumption norm approved by the Commission.

3.4.3 The BSEB submitted that it has undertaken massive rural electrification work under the RGGVY scheme. Consequently, there has been a tremendous increase in the network of BSEB in the high loss rural areas and an addition of large number of Kutir Jyoti consumers. The BSEB has electrified 220018 number of BPL households and 4472 number of villages during FY 2009-10. This substantial addition in the network has not only led to increase in the technical losses in the system, but has also rendered the system porous and prone to theft of electricity. Given the vast expansion of the rural areas it is not always possible for BSEB to control theft. Due to these reasons, BSEB has not been able to achieve the loss targets given by the Commission.

3.4.4 The BSEB has requested the Commission to consider the T&D losses of 38.32% at the time of calculating power purchase requirement. Further, it has also requested the Commission to compensate the difference between actual power purchase cost and power purchase cost calculated based on the agriculture consumption norm and T&D loss trajectory from the Resource Gap Funding provided by the State Government.

Commission's analysis

3.4.5 The Commission has fixed a target of T&D losses at 35% for the FY 2009-10 in its tariff order for FY 2008-09. The trajectory has already been reviewed earlier and so the Commission is of the view that it is the responsibility of BSEB to reduce its distribution losses and take appropriate measures to bring down the losses.

3.4.6 Accordingly, the Commission approves the Transmission & Distribution losses of 35% for true up for FY 2009-10. The same shall be considered at the time of computation of the power purchase cost.

3.4.7 The table below summarises the T&D loss levels target set by Commission, T&D loss as per annual accounts and the approved T&D loss in truing up for FY 2009-10:

Table 11: Approved T&D Loss for FY 2009-10

Particulars	As per loss target set for FY 2009-10 by BERC	As per Annual Accounts of FY 2009-10	Now Approved in True up of FY 2009-10
T&D Losses (%)	35%	38.32%	35%

3.5 Own Generation

Petitioner's submission

3.5.1 The BSEB has submitted that it owns and operates one thermal generating plant i.e. Barauni Thermal Power Station (BTPS) located at Barauni. The overall installed capacity of Unit IV, V, VI and VII of the BTPS in FY 2009-10 was 320 MW. However, it was submitted in the petition that during FY 2009-10, out of the remaining two functional units i.e. Unit VI and VII, Unit VI was functioning at a de-rated capacity, while Unit VII was under shutdown and Renovation & Modernization work was going on for its revival.

3.5.2 Accordingly, the actual performance of the BTPS, Barauni in FY 2009-10 as per the audited annual accounts was not at desired levels. The BSEB has requested the Commission to approve the same.

Table 12: Summary of Generation Performance proposed by petitioner for FY 2009-10

Particular	Units	FY 2009-10 (Actual)
Capacity (Unit VI & VII)	MW	220
Capacity in Use	MW	105
Plant Load Factor	%	28.78%
Auxiliary Consumption	%	14.40%
Gross Generation	MUs	264.71
Auxiliary Consumption	MUs	38.11
Net Generation	MUs	226.60

Commission's analysis

3.5.3 Accordingly, the Commission now approves the actual gross generation of 264.71 MU and net generation of 226.60 MU for FY 2009-10. Further, the Commission also approves the auxiliary consumption of 38.11 MU i.e. 14.4% of the gross generation for FY 2009-10 as per annual accounts.

3.5.4 Summary of the approved generation performance is as shown in the table below:

Table 13: Summary of approved Generation performance for FY 2009-10

Particulars	Units	Audited Annual Accounts	Now Approved in True up
Capacity	MW	220	220
Capacity in use	MW	105	105
Gross Generation	MUs	264.71	264.71
Plant Load Factor	%	28.78%	28.78%
Auxiliary Consumption	%	14.40%	14.40%
Auxiliary Consumption	MUs	38.11	38.11
Net Generation	MUs	226.60	226.60

3.6 Power Purchase*Petitioner's submission*

3.6.1 The BSEB had firm allocations of power from thermal power plants of NTPC, Hydel Power Plants of NHPC, and the hydel plants of Chukka & Tala through PTC and hydel plants of BSHPC and thermal power plant of Kanti BUNL. In addition to these, BSEB also purchased power from co-generation sources of sugar mills.

3.6.2 The Petitioner has submitted gross power purchase quantum of 9941.28 MUs from all sources in its True-up Petition for FY 2009-10. Further, on being directed by the Commission vide letter no. BERC-Tariff-18/11-38 dated 11th January 2012 to submit the details of power purchase of 477.11 MUs, BSEB vide letter No. Com/Pet-

136/2011-147 dated 20.01.2012 submitted that it maintains the record for UI (as shown below) on daily basis however the bifurcation of UI purchase under peak and off-peak hour is not available with BSEB.

Table 14: Ui Statement for the FY 2009-10

Month	Sale of Power		Purchase of Power	
	Units (MUs)	Amount (Rs. Cr.)	Units (MUs)	Amount (Rs. Cr.)
Apr'09	2.216	0	35.807	18.344
May'09	36.962	10.059	16.137	6.283
Jun'09	37.679	14.581	0	0
July'09	9.935	3.421	61.37	23.219
Aug'09	2.468	0.247	12.833	7.709
Sep'09	8.715	3.758	26.956	12.969
Oct'09	0	0.804	36.967	14.174
Nov'09	4.524	1.267	41.145	11.445
Dec'09	0	0	43.187	10.582
Jan'10	0	0	62.323	21.856
Feb'10	0	0	75.60	19.516
Mar'10	0.21	0	60.557	26.199
Total	102.71	34.137	472.882	172.296

3.6.3 The Commission while analysing the data furnished by BSEB vide letter No. Com/Pet-136/2011-147 dated 20.01.2012 found that the value of power purchase through UI as per the additional information (472.88 MUs) is not matching with the data appearing in annual accounts (477.11 MUs) for FY 2009-10. Accordingly, BSEB is directed to ensure that the future Petitions should be free from such errors and omission pointed out by the Commission. However, for the purpose of truing up the Commission has considered the UI purchase data as per annual accounts.

3.6.4 The BSEB has requested the Commission to approve 9941.28 MU of power purchase quantum for the FY 2009-10.

Commission's Analysis

3.6.5 The Commission recognises the sources of power as outlined by BSEB based on the Annual Accounts for FY 2009-10 and the costs associated with purchase of power from these sources. However, the quantum of power purchase and the cost associated with the same would be approved after taking into cognisance the approved sales for the year and the T&D loss trajectory.

- 3.6.6 The Commission intends to use the same methodology for approval of the Power purchase quantum and cost associated with the same based on the information available in the Audited Annual Accounts for FY 2009-10 and approves the quantum of Power Purchase on the same principles as done earlier during the true up for FY 2006-07, FY 2007-08 and FY 2008-09.
- 3.6.7 The summary of the approved power purchase quantum from various sources for the FY 2009-10 is given in the table below:

Table 15: Source-wise Power Purchase Quantum for FY 2009-10 (MUs)

Sl.	Power Plant Name	Audited Annual Accounts of FY 2009-10	Now approved in True up of FY 2009-10
	NTPC		
1	Farakka	2450.14	2450.14
2	Kahalgaon	1789.92	1789.92
3	Talchar	2664.73	2664.73
4	KBUNL	395.82	395.82
	Sub Total (NTPC)	7300.61	7300.61
	NHPC		
5	Rangit	112.45	112.45
6	Teesta	547.15	547.15
	Sub Total (NHPC)	659.60	659.60
	PTC		
7	Chukka	541.88	541.88
8	Tala	847.76	847.76
	Sub Total (PTC)	1389.64	1389.64
	Others		
9	NEA – Muzaffarpur	18.43	18.43
10	NEA – Motihari	39.90	39.90
11	NEA – Purnea	12.58	12.58
12	Bihar State Hydo Electric Power Corporation	32.27	32.27
13	New Swadeshi Sugar Mill	11.14	11.14
14	UI	477.11	477.11
	Sub Total Others	591.43	591.43
	Grand Total	9941.28	9941.28

3.6.8 The Commission now considers the total quantum of power purchase, i.e. 9941.28 MUs, for the purpose of working out the energy balance and computation of the power purchase expenses as part of the true up exercise.

3.7 Energy Balance

Petitioner's submission

3.7.1 The energy requirement for FY 2009-10 submitted by the Petitioner based on the proposed sales and T&D losses is tabulated hereunder:

Table 16: Proposed Energy Requirement & Energy balance for FY 2009-10

Particular	Unit	FY 2009-10 (Actual Accounts)	FY 2009-10 (Actual-BERC norm)
Energy Sales within State	MU	5,512	5,137
Energy outside State (Nepal)	MU	452.74	452.74
Sale in bilateral trade/ UI	MU	102.71	102.71
Total Sales	MU	6,067	5,693
T&D Losses	MU	3,769	3,010
T&D Losses	%	38.32%	35.00%
Energy Requirement	MU	9,837	8,703
Energy Availability			
Own Generation	MU	227	227
Total Power Purchase from long term sources	MU	9,941	9,941
Transmission loss in regional losses	%	3.70%	3.70%
Transmission loss in regional losses	MU	331	331
Net Power Availability	MU	9,837	9,837
Additional purchase	MU		1,134

3.7.2 The BSEB in its submission has recognised 1134 MUs of additional Power purchase on account of higher T&D losses and requested the Commission to dis-allow the same for the FY 2009-10.

Commission's analysis

3.7.3 The energy requirement of the Petitioner is approved based on the approved values of sales and T&D losses by the Commission. The T&D losses have not been considered on sales in bilateral trade/ UI.

- 3.7.4 The energy balance for FY 2009-10 shall be prepared based on the approved sales to consumers during the year, the approved level of T&D losses and the power purchased/generated to meet the demand from the consumers.
- 3.7.5 The Commission had disallowed power purchase quantum equivalent to 1134 MUs for the FY 2009-10 as part of true up process based on the principle that excess power purchase on account of higher T&D losses i.e. over and above the approved losses shall not be permitted.
- 3.7.6 Accordingly, the approved total power purchase requirement (net) based on the approved sales to consumers and approved T&D losses is 8703 MUs. As against this, BSEB has shown net availability of 9837 MUs i.e. 1134 MUs additional over and above the requirement. Accordingly, the Commission disallows power purchase quantum of 1134 MUs for FY 2009-10. The power purchase cost corresponding to the same would be adjusted in the total power purchase cost approved for the year.

Table 17: Approved Energy Requirement for FY 2009-10

Particular	Unit	FY 2009-10 (Actual Accounts)	FY 2009-10 (Actual- BERC norm)	FY 2009-10 (Now Approved in True up)
Energy Sales within State	MU	5,512	5,137	5,137.20
Energy outside State (Nepal)	MU	452.74	452.74	452.74
Sale in bilateral trade/ UI	MU	102.71	102.71	102.71
Total Sales	MU	6,067	5,693	5,692.65
T&D Losses	MU	3,769	3,010	3,009.97
T&D Losses	%	38.32	35.00	35.00%
Energy Requirement	MU	9,837	8,703	8702.61
Energy Availability				
Own Generation	MU	227	227	226.60
Total Power Purchase from long term sources	MU	9,941	9,941	8,768.22
Transmission loss in regional system	%	3.70%	3.70%	3.70%
Transmission loss in regional system	MU	331	331	292.21
Net Power Availability	MU	9,837	9,837	8,702.61
Additional purchase	MU		1,134	1,133.97

- 3.7.7 The total purchases from long term sources has been worked out considering the impact of average regional transmission losses (3.33% = 331 MU ÷ 9941 MU) applicable on the total actual power purchase by BSEB in FY 2009-10. The reason for applying the average regional transmission losses is that the power purchase

quantum by BSEB also includes sources of power on which the regional transmission losses of 3.7% are not applicable e.g. UI power, Nepal (NEA), BSHPC, etc. Accordingly, the gross power purchase required to be done in FY 2009-10 was 8768.22 MU with a regional transmission loss of 292.21 MU. {8768.22 MU = (8702.61 – 226.60) ÷ (1-3.33%)}

3.8 Own Generation Cost

Petitioner's submission

3.8.1 The petitioner submitted that the Gross Generation from BTPS for FY 2009-10 was 264.71 MU. The BSEB has further submitted that unit VI of BTPS was under R&M for most of the year and could achieve PLF of only 28.78% and hence was not able to achieve operational parameters set by the Hon'ble Commission; whereas unit VII of BTPS remained under shut down for the entire period during FY 2009-10.

3.8.2 The variable cost calculation submitted by the Petitioner for BTPS is tabulated below:-

Table 18: Proposed Plant parameters & Fuel cost determinants for BTPS

Particulars	Unit	FY 2009-10 As per Table 7 of petition	FY 2009-10 As per Format 2 of petition
Gross Generation	MUs	264.71	264.71
Auxiliary Consumption	MUs	38.11	38.11
Net Generation	MUs	226.60	226.60
Capacity	MW	110	110
De-rated Capacity	MW	105	105
Plant Load Factor	%	28.78%	28.78%
Auxiliary Consumption	%	14.40%	14.40%
Station Heat Rate	kcal/kWh	4,392	4,216
Sp. Oil Consumption	ml/kWh	21.62	21.62
Gross Calorific Value of Coal	kcal/kg	4,276	4,079
Calorific Value of Oil	kcal/l	9,745	10,477
Transit losses	%	0.00%	0.00%
Actual Oil Consumption	kl	5,724	5,724
Actual Coal Consumption	MT	258,873	258,873
Specific Coal Consumption	kg/kWh	0.98	0.98
Price of Coal	Rs./MT	1,789	1,789
Price of Oil	Rs/kl	28,548	28,548
Coal Cost	Rs. Cr.	46.31	46.31
Oil Cost	Rs. Cr.	16.34	16.34

Particulars	Unit	FY 2009-10 As per Table 7 of petition	FY 2009-10 As per Format 2 of petition
Fuel Cost	Rs. Cr.	62.65	62.65
Other Fuel Related costs	Rs. Cr.	4.01	4.01
Total Fuel Costs	Rs. Cr.	66.66	66.66

3.8.3 On scrutiny of the petition the Commission observed the anomalies in the data provided in the true up petition relating to SHR, GCF and Calorific value of oil. Further on being directed by the Commission vide letter No. BERC-Tariff-18/11-38 dated 11th January 2012 to submit the actual values of the said parameters. BSEB vide letter No.Com/ Pet-136/2011-147, dated 20.01.2012 submitted that the difference in the detail given about the operational parameters of BTPS given in table 7 and Format 2 is due to typographical error and requested the Commission to consider the operational parameters of BTPS as per the Table 7 of the petition. Accordingly, BSEB is directed to ensure that the future Petitions should be free from such errors and omission pointed by the Commission.

Table 19: Generation parameter as per the true up petition of FY 2009-10

Parameter	As per Table 7 of True up petition for FY 2009-10	As per Format 2 of True up petition for FY 2009-10	As per additional information submitted by petitioner for FY 2009-10
SHR (kcal/ kWh)	4,392	4,216	4,392
GCV of Coal (kcal/ kg)	4,276	4,079	4,276
Calorific value of Oil (kcal/ l)	9,745	10,477	9,745

3.8.4 The Board was also directed by the Commission to provide the source of data for parameters such as Coal consumption, Oil consumption, Calorific value of coal, Calorific value of Oil etc., as the same are not appearing in the Statement 9 of the Audited Accounts of BSEB. The Petitioner vide letter No.Com/ Pet-136/2011-147, dated 20.01.2012 submitted that based on the average price of coal & oil and the total amount spent on purchase of coal and oil, the total coal and oil consumption has been calculated; also the calorific value of coal and oil is taken as given in the bills of coal and oil.

3.8.5 The Petitioner accordingly requested the Commission to consider gross generation of 226.60 MUs and generation costs of Rs 66.66 Cr. for FY 2009-10.

Commission's analysis

3.8.6 The Commission noted that Unit-VII of BTPS is under shut down during the entire period of FY 2009-10. Moreover, the Commission has examined the performance of

the Unit VI of BTPS on key performance parameters like Station Heat Rate, Specific coal consumption and specific oil consumption which have impact on the cost of generation vis-à-vis the performance of the unit VI in FY 2006-07, FY 2007-08 and FY 2008-09.

- 3.8.7 The Commission found that the performance of unit VI in FY 2009-10 on the key performance parameters such as Station Heat rate, Specific Oil consumption has been poor even though the generation has been higher in the FY 2009-10 as compared to past three Financial years. As can be seen, the actual performance of BTPS Unit VI has not improved as expected by the Commission and has in fact deteriorated further. Considering these facts, the Commission is not agreeable to approving the performance parameters of BTPS Unit VI at actuals.
- 3.8.8 Accordingly, the Commission approves the generation cost of BTPS based on the approved value of Station Heat rate and Specific Oil Consumption for FY 2008-09 while giving due weightage to the vintage of the plant. The Commission also directs BSEB to take serious cognisance of the same and initiate steps towards improvement in the operational parameter of the generating station.
- 3.8.9 The Commission approves the fuel cost of Rs 62.76 Cr. for FY 2009-10 based on the cost determined by the Commission and the actual generation submitted by the Petitioner. The Operational parameters and details of cost component allowed by the Commission are stated below:-

Table 20: Approved plant parameters & fuel cost determinants for FY 2009-10

Particulars	Unit	FY 2009-10 as per Table 7 of petition	Now Approved in True up of FY 2009-10
Gross Generation	MUs	264.71	264.71
Auxiliary Consumption	MUs	38.11	38.11
Net Generation	MUs	226.60	226.60
Capacity	MW	110	110
De-rated Capacity	MW	105	105
Availability Factor	%	56.32%	56.32%
Plant Load Factor	%	28.78%	28.78%
Auxiliary Consumption	%	14.40%	14.40%
Station Heat Rate	kcal/kWh	4,392	4,226
Sp. Oil Consumption	ml/kWh	21.62	18.45
Gross Calorific Value of Coal	kcal/kg	4,276	4,276
Calorific Value of Oil	kcal/l	9,745	9,745
Overall Heat	G Cal	1,115,937	1,118,661

Particulars	Unit	FY 2009-10 as per Table 7 of petition	Now Approved in True up of FY 2009-10
Heat from Oil	G Cal	59,971	47,593
Heat from Coal	G Cal	1,055,966	1,071,068
Transit losses	%	0.00%	0.00%
Actual Oil Consumption	kl	5,724	4,883.89
Actual Coal Consumption	MT	258,873	250,484
Specific Coal Consumption	kg/kWh	0.98	0.95
Price of Coal	Rs./MT	1,789	1,789
Price of Oil	Rs/kl	28,548	28,548
Coal Cost	Rs Cr.	46.31	44.81
Oil Cost	Rs Cr.	16.34	13.94
Fuel Cost	Rs Cr.	62.65	58.75
Other Fuel Related costs	Rs Cr.	4.01	4.01
Total Fuel Costs	Rs Cr.	66.66	62.76

3.8.10 The Commission now approves total fuel cost of Rs. 62.76 Cr. for FY 2009-10 as part of the truing up process. This cost is excluding the cost of water and other miscellaneous expenses which are factored under the Repairs and Maintenance expenses.

3.9 Power Purchase Cost

Petitioner's submission

3.9.1 The Petitioner has submitted gross power purchase cost of Rs 2529 Cr. including transmission charges for FY 2009-10 for true up from all sources including Intra-state and UI.

3.9.2 The Petitioner has claimed total transmission charges of Rs. 169.34 Cr. for total power purchased during FY 2009-10.

3.9.3 The Petitioner submitted the source-wise break up of total cost and unit cost, the details of which are given below:

Table 21: Proposed Power Purchase cost for FY 2009-10

Sl.	Power Plant Name	Total Cost (Rs. Crores)	Per Unit Cost (Rs./Unit)
	NTPC		
1	Farakka	688.00	2.81
2	Talchar	494.00	1.85
3	Kahalgaon	465.00	2.60
4	KBUNL	144.00	3.65

Sl.	Power Plant Name	Total Cost (Rs. Crores)	Per Unit Cost (Rs./Unit)
	Sub Total (NTPC)	1,792.00	2.45
	NHPC		
5	Rangit	21.00	1.87
6	Teesta	93.00	1.71
	Sub Total (NHPC)	114.00	1.74
	PTC		
7	Chukka	86.00	1.59
8	Tala	156.00	1.84
	Sub Total (PTC)	242.00	1.74
	Others		
9	Nepal	29.00	4.12
10	BSHPC	7.00	2.08
11	New Swadeshi Sugar Mill	3.00	3.00
12	UI	172.00	3.61
	Sub Total Others	212.00	3.58
	Transmission charges		
13	PGCIL Charges	169.00	
	Grand Total	2,529.00	2.54

3.9.4 The Commission vide letter No. BERC-Tariff-18/11-38 dated 11th January 2012 enquired from the Petitioner regarding discrepancies in the power purchase units submitted by it in the True up petition and the figures provided in FPPCA. The Board vide letter No.Com/ Pet-136/2011-147, dated 20.01.2012 has submitted that the actual units of power purchase and associated power purchase cost during the FY 2009-10 indicated in Audited annual accounts are correct. However, the reason for difference in the figures of annual accounts and FPPCA petition is due to fact that, the FPPCA petition for the period from April 09 to September 2009 was filed on 08.02.2010 and for the period from October 2009 to March 2010 was filed on 18.06.2010 much before finalisation of Annual Accounts for the FY 2009-10, which was finalised on 16.11.2010, taking into account all the figures/data relevant to FY 2009-10.

Commission's analysis

3.9.5 Accordingly, the source-wise power purchase approved by the Commission for true up of FY 2009- 10 is depicted in the table given below:

Table 22: Trued-up Power Purchase Cost for FY 2009-10 (Rs. Cr.)

Sl.	Power Plant Name	Audited Annual Accounts of FY 2009-10		Now Approved in True up of FY 2009-10	
		Amount (Rs. Cr.)	Average rate (Rs./ kWh)	Amount (Rs. Cr.)	Average rate (Rs./ kWh)
	NTPC				
1	Farakka	688.41	2.81	688.41	2.81
2	Talchar	494.19	1.85	494.19	1.85
3	Kahalgaon	464.84	2.60	464.84	2.60
4	KBUNL	144.47	3.65	144.47	3.65
	Sub Total (NTPC)	1,791.91	2.45	1,791.91	2.45
	NHPC				
5	Rangit	21.00	1.87	21.00	1.87
6	Teesta	93.50	1.71	93.50	1.71
	Sub Total (NHPC)	114.50	1.74	114.50	1.74
	PTC				
7	Chukka	86.15	1.59	86.15	1.59
8	Tala	155.99	1.84	155.99	1.84
	Sub Total (PTC)	242.14	1.74	242.14	1.74
	Others				
9	Nepal	29.21	4.12	29.21	4.12
10	BSHPC	6.72	2.08	6.72	2.08
11	New Swadeshi Sugar Mill	3.34	3.00	3.34	3.00
12	UI	172.30	3.61	172.30	3.61
	Sub Total Others	211.57	3.58	211.57	3.58
	Transmission charges				
13	PGCIL Charges	169.34		169.34	
	Grand Total	2,529.46	2.54	2,529.46	2.54

3.9.6 *The Commission accordingly approves power purchase cost of Rs. 2529.46 Cr for the FY 2009-10 as part of the truing up exercise.*

3.10 Disincentive for non-achievement of T&D loss reduction Targets

3.10.1 The difference in the actual power purchase and the power purchase requirement approved by the Commission is disallowed at the average power purchase rate and is treated as 'Disincentive for non-achievement of T&D loss targets'.

3.10.2 As per the trajectory, the T&D loss reduction target for FY 2009-10 was set at 35% which the Petitioner was not able to achieve. Accordingly, the Commission has computed the disincentive for non-achievement of T&D loss reduction targets at Rs.

298.47 Cr for FY 2009-10 in line with the methodology adopted while truing up for FY 2006-07, FY 2007-08 and FY 2008-09 as shown below:

Table 23: Disincentive for non-achievement of T&D loss reduction target for FY 2009-10

Particular	Units	FY 2009-10
Net Power Purchase Dis-allowed	MUs	1,133.97
Gross Power Purchase Dis-allowed (Grossed up at avg. loss @ 3.33%)	MUs	1,173.06
Average Power purchase cost	Rs./ kWh	2.54
Cost of Power Purchase Dis-allowed	Rs. Crs.	298.47

3.10.3 The Commission accordingly approves Rs. 298.47 Cr as dis-allowance for non-achievement of T&D loss target for the FY 2009-10 as part of the truing up exercise.

3.11 Operation & Maintenance Expenses

Employee Cost

Petitioner's submission

3.11.1 Employee expenses are typically comprised of salaries, dearness allowance, bonus, terminal benefits in the form of pension & gratuity, leave encashment and staff welfare expenses.

3.11.2 The Petitioner has submitted net Employee Expenses as Rs. 729.94 Cr. for FY 2009-10 including salaries, dearness and other allowances, contribution towards terminal benefits, and unfunded terminal liabilities etc. The Petitioner has claimed Rs. 126.96 Cr. towards staff related liabilities & provisions as indicated in the schedule 28 of the Annual Accounts and Rs. 42.72 Cr. for interest on GSS, GPF and other staff deposits as indicated in the schedule 12 of the annual accounts on account of unfunded terminal liabilities in FY 2009-10.

Table 24: Employee Cost (Rs. Cr.) proposed by petitioner for FY 2009-10

Sl.	Particulars	Amount (Rs. Lakh)
SALARIES & ALLOWANCES		
1	Basic Pay + Special Pay	23613.97
2	Dearness Pay	
3	Dearness Allowance	7270.84
4	House rent Allowance	1569.50
5	Fixed medical allowance	130.05
6	Medical reimbursement charges	107.95
7	Over time payment	546.40

Sl.	Particulars	Amount (Rs. Lakh)
8	Other allowances	330.39
9	Generation incentive	0.00
10	Bonus	18.23
11	Total (1 to 10)	33587.33
12	Leave encashment	1617.86
13	Gratuity	2518.77
14	Commutation of Pension	-
15	Workman compensation	34.19
16	Ex- gratia	0.29
17	Total (12 to 16)	4171.11
	Pension Payment	
18	Basic Pension	19830.95
19	Dearness Pension	0
20	Dearness allowance	0
21	Any other expenses	116.73
22	Total (18 to 21)	19947.68
23	Total (11+17+22)	57706.12
24	Employee Cost Capitalised	1680.00
25	Payment made for unfunded liabilities	16,968.76
26	Grand Total (23-24+25)	72994.88

3.11.3 The Commission vide letter No. 824 dated 21st December 2011 enquired from the Petitioner regarding details of the provisions made in respect of retirement benefits for existing employees as well as retired employees; As the Commission is of the view that Electricity Supply (Accounts) Rules, 1985 provides provisions for terminal benefit including pension and gratuity and other retirement benefits which is to be made every year on accrual basis and separate fund needs to be created by the State Electricity Board out of which the terminal benefits shall be paid to the employees after retirement/ death. In response to the query the Board has submitted the following:

“Electricity Supply (Accounts) Rules, 1985 provides that provisions for terminal benefit including pension and gratuity and other retiral benefits shall be made every year on accrual basis and separate fund shall be created by the State Electricity Board out of which the terminal benefits shall be paid to the employees after retirement/ death. This provision is on the premise that the Board will be a commercial organization and would recover all its expenses from the consumers +3% surplus on fixed assets base. However, it is a fact that the Board has never

realized entire expenditure and generated surplus of 3% as per the provision of the Electricity (Supply) (Annual Accounts) Rules, 1985 from the consumer through tariff in the past, particularly before the issue of first tariff order of the Commission for FY 2006-07. Under this circumstance the Board was not in a position to maintain a separate fund for terminal benefits provided in the Accounts. As on 31.03.2006, the unfunded staff related liabilities including GPF and retiral benefit was Rs. 2123.34 Cr. It is under this background that the Hon'ble Commission has been considering the employees cost including terminal benefits on the basis of actual payment at the time of determining ARR for FY 2006-07 and onwards.

As regards the details of provisions made in respect of retiral benefits for existing employees as well as retired employees, it may be mentioned that Rs. 240.85 Cr. has only been provided against existing employees of the Board as on 31.03.2010. The said provision does not include any provision against retired employees which is being claimed through ARR on actual basis. It is also relevant to mention that since 2007, the pensioner liability has increased by 40% due to implementation of 6th Pay Commission Report. Further, it is also relevant to mention that Rs. 367.81 (240.85 +126.96) Cr. was incurred on actual payment of pensionary liabilities of the retired employees and Rs. 336.21 (577.06 – 240.85) Cr. was incurred in actual payment of salary and other heads of employees cost of existing employees making the total employees cost claimed through ARR as Rs. 704.02 (367.81 + 336.21) Cr. (Rs. 577.06 Cr. exhibited under revenue accounts Statement-I and Rs. 126.96 Cr. under by the way of reduction in the liability in Schedule-28 of the Annual Accounts) for FY 2009-10.”

Commission's Analysis

3.11.4 The Commission in the tariff order for FY 2011-12 had stated that:

“4.7.12. So far the contribution of the employees towards GPF and GSS is concerned; this is not a part of employee cost. This amount is deducted from the salary of the employees and should be deposited in a separate fund to be governed by a Trust in which both BSEB and its employees are represented. Any investment out of this fund has to be with the approval of the Trust.”

3.11.5 Accordingly, it is apparent that BSEB has utilised the amounts available in the fund created towards GPF and GSS contribution towards meeting its day to day expenses

i.e. for the purpose of funding its working capital requirements. Accordingly, permitting these expenses to be passed on to the consumers shall mean that the consumers have to bear the burden for the past financial mismanagement by the Board. The Commission is of the view that such liabilities on account of past issues should be funded by BSEB through its own means and should not be passed on to the consumers at this point of time. The regulations anyways provide for normative working capital interest to be passed on to the consumers thus meeting the working capital requirements of the licensee for the year.

3.11.6 In view of the above, the Commission approves the net employee cost for FY 2009-10, as depicted in the table given below:

Table 25: Employee Cost approved for FY 2009-10 (Rs Cr.)

Sl.	Particulars	As per Annual Accounts	Now approved in True-up for FY 2009-10
1	Employee cost	577.06	577.06
2	Add: Payment made for unfunded liabilities	169.68	-
3	Less: Employee cost Capitalized	16.80	16.80
4	Net Employee cost	729.94	560.26

3.11.7 **The Commission approves Rs.560.26 Cr. as the employee cost for FY 2009-10.**

Repair and Maintenance (R&M) Expenses

Petitioner's submission

3.11.8 The Petitioner, in the True up Petition for FY 2009-10 has submitted the R&M cost at Rs 58.24 Cr. for FY 2009-10.

Commission's Analysis

3.11.9 The Commission in its tariff order for FY 2008-09 dated 26th August, 2008 directed BSEB to include water charges & miscellaneous charges under the head R&M expenses and exclude the same from the head fuel cost.

3.11.10 Based on the above, the Commission approves R&M expenses of Rs. 58.23 Cr. for the FY 2009-10 which includes Rs. 3.64 Cr. on account of water charges and other miscellaneous charges which were shifted from fuel costs to R&M expenses and base R&M expenses of Rs. 54.59 Cr. These values are the same as per the audited accounts for the FY 2009-10.

3.11.11 The summary of the approved R&M expenses for FY 2009-10 is as given in the table below:

Table 26: Summary of approved R&M cost (Rs. Cr.)

Sl.	Particulars	As per Annual Accounts	Now Approved in True-up for FY 2009-10
1	Plant & Machinery	26.46	26.46
2	Building	4.46	4.46
3	Hydraulic works	0.20	0.20
4	Civil Work	1.77	1.77
5	Line cable & network	21.47	21.47
6	Vehicles	0.12	0.12
7	Furniture & fixtures	0.03	0.03
8	Office equipment	0.09	0.09
9	Operating expenses	-	-
10	Total expenses	54.59	54.59
11	Add cost of materials procured from Board's Hdqrs. for R&M	-	-
12	Net Expenses	54.59	54.59
13	Cost of water & Other Misc. Charges	3.64	3.64
14	Total R&M Expenses	58.24	58.24

3.11.12 ***The Commission based on the audited annual accounts approves the R&M expenses of Rs.58.24 Cr. for the FY 2009-10.***

Administrative & General (A&G) Expenses

Petitioner's submission

3.11.13 The petitioner has proposed the Administrative & General (A&G) expenses of for FY 2009-10 as Rs. 35.99 Cr. and also submitted that the A&G expenses capitalised during FY 2009-10 was Rs. 1.52 Cr. as per the audited accounts of BSEB.

Commission's Analysis

3.11.14 The Commission approves the A&G expenses submitted by BSEB for FY 2009-10. The summary of the A&G expenses approved is outlined in the table below:

Table 27: Summary of approved A&G cost (Rs. Cr.)

Sl.	Particulars	As per Annual Accounts	Now approved in True-up for FY 2009-10
1	Rent, rates & taxes	0.46	0.46

Sl.	Particulars	As per Annual Accounts	Now approved in True-up for FY 2009-10
2	Insurance	0.01	0.01
3	Telephone, postage & Telegrams	1.22	1.22
4	Legal Charges	0.75	0.75
5	Audit Fees	4.00	4.00
6	Consultancy fees	0.01	0.01
7	Technical fees	0.86	0.86
8	Other professional charges	0.00	0.00
9	Conveyance & travel expenses	4.90	4.90
10	Others(as per details given below)	23.14	23.14
11	Freight	0.64	0.64
12	Total A & G expenses	35.99	35.99
13	Less: A&G expenses capitalized	1.52	1.52
14	Net A & G expenses	34.47	34.47

3.11.15 *The Commission approves the actual net A&G expenses of Rs. 34.47 Cr. as reflecting in the audited annual accounts for FY 2009-10.*

Operation & Maintenance (O&M) Costs

3.11.16 Based on the above approvals, the summary of the total O&M costs approved by the Commission for FY 2009-10 as part of the truing up process is outlined in the table below:

Table 28: Summary of approved O&M expenses for FY 2009-10 (Rs. Cr.)

Sl.	Particulars	As per Annual Accounts	Now approved in True-up for FY 2009-10
1	Employee cost	729.95	560.26
2	Repair and Maintenance (R&M) Expenses	58.24	58.24
3	Administrative & General (A&G) Expenses	34.47	34.47
4	Total O&M Cost	822.66	652.97

3.12 Capital Expenditure

3.12.1 As mentioned by the Commission during the truing up for the period of FY 2006-07 to FY 2008-09, the Capital Expenditure undertaken by BSEB is a very critical aspect of its business as it supports the growth of business and helps the Board in sustaining its operational performance.

- 3.12.2 It would be pertinent to mention here that as per the licence conditions para 51 of chapter 5 of BERC (Grant of licence for Distribution of electricity) Regulations, 2007, BSEB is required to furnish details of the proposed schemes expenditure before commencement of the project. Further, BSEB should seek prior approval of such capital expenditure from the Commission. In the absence of the approval, the Commission may disallow corresponding depreciation and interest cost. As can be seen, the availability of capital expenditure related information is a basic requirement of the distribution license granted to BSEB.
- 3.12.3 BSEB in its true-up petition for FY 2009-10 has not submitted any information regarding the actual capital expenditure undertaken by it during the year and the capitalisation of assets on account of projects / schemes getting commissioned during the year.
- 3.12.4 The information relating to the capital expenditure provided by BSEB in the formats submitted along with the petition also does not provide the necessary information in a clear and unambiguous manner for the Commission to consider it for necessary decision making.
- 3.12.5 The Commission vide its letter no. 824 dated 21st December, 2011 had sought information regarding the capital expenditure that has been undertaken during the year including details like the total value of the scheme, the capital expenditure done till the beginning of the year, capital expenditure incurred during the year, the corresponding capitalisation against these schemes and the closing work in progress in respect of schemes which have not been capitalised. Further, the Commission had also sought details of the funding utilised for the said capital expenditure. However, BSEB has not been able to provide the information as sought by the Commission.
- 3.12.6 Accordingly, based on the information available with the Commission from the audited annual accounts, the Commission has estimated the actual capital expenditure incurred by BSEB in FY 2009-10. The same is outlined in the table below:

Table 29: Estimation of CWIP (Rs. Cr.)

Particulars	Now approved in True-up for FY 2009-10
Opening balance - CWIP	934.10
Add: New investment during the year	255.40
Total	1,189.50
Less: Net Investment capitalization during the year	308.29

Particulars	Now approved in True-up for FY 2009-10
Closing balance	881.20

3.12.7 As can be seen from the above, the estimated capital expenditure during the FY 2009-10 is Rs. 255.40 Cr. The same is computed based on the other information which is available in the audited annual accounts e.g. Opening and Closing CWIP and the assets capitalised during the year.

3.12.8 The same can also be derived by tracking the movement in the quantum of Gross Fixed Assets and CWIP over the year. The same can also be corroborated from the Statement 7: Sources and Uses of Funds available in the audited annual accounts for FY 2009-10. The details are as illustrated below:

Table 30: Estimated Capital expenditure (Rs. Cr.) – FY 2009-10

Particulars	Now approved in True-up for FY 2009-10
Opening balance – GFA (a)	2,556.51
Opening balance – CWIP (b)	934.10
Less: Closing GFA (c)	2,864.80
Less: Closing CWIP (d)	881.20
Net change in GFA/ CWIP (e = c + d – a – b)	255.40

3.12.9 The Commission directs BSEB to ensure that information like Capital expenditure and the related capitalisation of assets, etc. should be available with it as it is basic information required by the Commission to approve expenditure related to funding costs incurred by BSEB. Non-availability of such information will force the Commission to adopt normative approval of the capital expenditure related costs and in some cases, may not allow such expenditure at all as such expenditure cannot be passed on to the consumers without proper prudence check.

3.12.10 Based on the information available in the audited accounts the capital assets to the tune of Rs. 308.29 Cr. have been capitalised in the FY 2009-10. The Commission now approves the same for computation of the interest expenses.

3.13 Gross Fixed Assets

3.13.1 The Commission vide letter No. BERC-Tariff-18/11-38 dated 11th January 2012 enquired from the Petitioner regarding, the asset added during FY2009-10 under head 'Plant and Machinery' and 'Lines and Cable Network' and its source of funds (Loans/ Grant etc). The Board vide letter No.Com/ Pet-136/2011-147, dated 20.01.2012 could only submit the detailed break-up of assets added during FY 2009-

10 under that the head 'Plant and Machinery' and 'Lines and Cable Network' as shown in the table below, however BSEB has not provided information regarding the source fund through which the assets have been created.

Table 31: Breakup of asset added during FY 2009-10 in plant & machinery & Line & Cable

	Plant and Machinery		Lines and Cables	
	Addition (Rs.)	Deduction (Rs.)	Addition (Rs.)	Deduction (Rs.)
B.T.P.S. Barauni	0		0	
Bhagalpur Area Bhagalpur				
Central Area Patna				
Chief Engineer P.E.S.U.				
D. D. A. (Sectt)				
Elecl Circle Saharsa	0		152165969	
Elecl. Circle Chapra	0		15716166	
Elecl. Circle Arrah	20483866		32955309	
Elecl. Circle Bhagalpur	57157216		178345103	
Elecl. Circle Darbhanga	430330457		174049927	
Elecl. Circle Gaya	524622668		184094140	
Elecl. Circle Motihari	0		29420889	
Elecl. Circle Munger	36903		58526404	
Elecl. Circle Muzaffarpur	0		52650668	
Elecl. Circle Nalanda	6164304		9246457	
Elecl. Circle Patna	26325126		25574177	
Elecl. Circle Purnia	0		505450212	
Elecl. Circle Samastipur	0		41633890	
Elecl. Circle Sasaram	13581646		24748996	
K.H.P.S. Birpur				
Koshi Area Saharsa				
M.T.P.S. Kanti	0		0	
Mithila Area Darbhanga				
P.E.S.U. (East)	0		20028002	
P.E.S.U. (West)	12751749		5927744	
Pole Manufac. Wing.	1096050			
R. E. Wing.				
Technical Service				
Security Wing.				
Telecom Circle Muzaffarpur				
D.D.A(HQ)				
Tirhut Area Muzaffarpur				
Trans. Circle Biharsharif	3553768		6252147	
Trans. Circle Dehari	36817280		79120248	

	Plant and Machinery		Lines and Cables	
Trans. Circle Gaya.	220980		0	
Trans. Circle Patna.	298747886		31043360	
Trans. Zone Gaya.	0		0	
Trans. Zone Muzaffarpur	0		0	
Trans.Circle Bhagalpur	1581204	20337670	812380	
Trans.Circle Muzaffarpur	0		0	
Trans.Circle Purnia	0		0	
Total	1,433,471,103	20,337,670	1,627,762,188	-

3.13.2 The Commission has approved the Gross Fixed Asset as per the annual accounts of BSEB. The position of the Gross fixed assets during FY 2009-10 is as shown in the table below:

Table 32: Gross Fixed Assets (Rs. Cr.) – FY 2009-10

Particulars	Now approved in True-up for FY 2009-10
Opening GFA (As on 1st April 2009)	2,556.51
Additions to GFA during the year	310.32
Deductions to GFA during the year	2.03
Re-classification during the year	-
Closing GFA (As on 31st March 2010)	2864.80

3.14 Depreciation

Petitioner's submission

3.14.1 The Petitioner in the true up Petition for FY 2009-10 submitted the depreciation expenses of Rs 59.72 Cr. for FY 2009-10 based on the annual accounts for BSEB.

Commission's Analysis

3.14.2 The Commission has approved the depreciation charges based on the schedule 11 of the annual accounts of FY 2009-10. However, the depreciation on the assets created out of consumer contribution, grant has been deducted from the gross depreciation to arrive at the net depreciation charge for BSEB. The computation the depreciation on the assets created out of consumer contribution, grant is based on the proportion of average of opening and closing value of 'Grant and contribution' and 'GFA' for FY 2009-10.

Table 33: Approved Depreciation (Rs. Cr.) for FY 2009-10

Sl.	Particulars	As per BSEB petition	Now approved in True-up for FY 2009-10
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Sl.	Particulars	As per BSEB petition	Now approved in True-up for FY 2009-10
1	Depreciation	59.72	59.72
2	Less: Depreciation on the assets created out of Grant, consumer contribution	-	12.94
3	Net Depreciation	59.72	46.79

3.14.3 Accordingly, **the Commission approves depreciation expenses of Rs. 46.79 Cr. for FY 2009-10** during the truing up process for FY 2009-10.

3.15 Interest and Finance Charges

Petitioner's submission

3.15.1 BSEB in its true-up petition has submitted that the Interest and Financial Charges incurred by it during the year for various purposes like capital expenditure, normal working capital, meeting revenue deficit etc. The submission by BSEB is outlined in the table below.

Table 34: Interest & Financial Charges as per the petition for FY 2009-10 (Rs. Cr.)

Institution	Nature of Loan	Opening Loan	Addition	Repayment	Closing Loan	Interest
State Govt						
(a) Plan Loan	Capital Expenditure	1,046.54	414.42	-	1,460.96	169.47
(b) Non plan loan	Revenue Deficit	3,414.99	143.44	-	3,558.44	471.31
(c) Bonds issued to CPSUs	Revenue Deficit	2,143.33	-	-	2,143.33	176.43
REC	Capital Expenditure	136.46	5.23	42.96	98.74	-
LIC	Capital Expenditure	-	-	-	-	-
L.D. bank under ARDC	Capital Expenditure	-	-	-	-	-
IDBI	Capital Expenditure	0.06	-	-	0.06	-
CEA	Capital Expenditure	-	-	-	-	-
PFC	Capital Expenditure	281.33	-	35.51	245.82	31.13
Public Bond	Capital Expenditure	42.88	-	42.88	-	4.93
Centrally Sponsored Schemes (Loans are not allocated to BSEB by State Government)	Capital Expenditure	-	-	-	-	11.69
Working Capital Loan	Working Capital	787.02	100.95	-	887.97	53.32
Consumer Security Deposit	Working Capital					5.41
Consumer Rebate	Working Capital					29.85
Other Charges	Working Capital					2.68
Total		7,852.62	664.05	121.35	8,395.32	956.22
Loans used for Capital Expenditure		1,507.27	419.65	121.35	1,805.58	217.22

3.15.2 BSEB has further submitted that prior to the Tariff Regulations, 2007, tariff were not sufficient enough to meet its expenditures and hence BSEB was making loss and also not able to make repayment of loans. Further, BSEB has identified the loans used for the capital expenditure and working capital and only asked the interest & financial charges for the loans used for the capital expenditure work.

3.15.3 As per the provisions of Tariff Regulations, 2007, BSEB has requested the Commission to approve net interest & financial charges of Rs. 201.22 Cr., taking into consideration Rs. 16 Cr. as the actual interest capitalised during FY 2009-10, for the loans raised for capital expenditure.

3.15.4 Further, in response to the Commission letter vide letter no. 735 dated 15th November, 2011, the Board vide letter no. Com/Misc-122/2011 – 1937 dated 1st December 2011 explained the details of the outstanding loans as submitted in the petition. The table below shows the details of loans as per the Schedules of the annual account for FY 2009-10.

Table 35: Reconciliation of Opening loan as submitted by BSEB for FY 2009-10 (Rs. Cr.)

Particulars	Opening balance of FY 2009-10
Borrowing for Working Capital (Schedule 30)	787.02
Payment due on Capital Liabilities (Schedule 31 (a))	1763.01
Capital Liabilities (Schedule 32)	460.73
Funds from State Government (Schedule 33)	4841.86
Opening Loan	7852.62

3.15.5 Further to examine the claims of BSEB the Commission vide letter no. 824 dated 21st December, 2011 sought information from BSEB regarding scheme wise plan loan received from State Govt./ Other financial institutions and the actual expenditure made against those schemes in different years. However, BSEB in its response has only provided the details of plan loan from the GoB and its expenditure till 31st Oct 2011 with regard to the plan loans. The summary of the same is reproduced below:

Table 36: Details of fund from GoB under different head upto 31.10.2011 (Rs. Cr.)

Sl.	Head/Year	Letter No.	Loan	Grant	Total	Expenditure Incurred	Balance fund	
1.	Distribution/ transmission							
	2009-10	L.No. 2505/ 13.07.09	12.38	-	12.38	12.38	-	Improvement of Distribution system and purchase of power & distribution T/F
	2009-10	L.No. 1344/ 26.03.10	12.62	-	12.62	12.62	-	Procurement of power & distribution T/F

Sl.	Head/ Year	Letter No.	Loan	Grant	Total	Expenditure Incurred	Balance fund	
	2009-10	L.No. 1224/ 18.03.10	50.00	-	50.00	50.00	-	Replacement of conductor 72460.25 km
2.	Generation/ P&D							
	2009-10	L.No. 3136/ 19.08.09	65.00	-	65.00	65.00	-	Land acquisition and other works for NPGCL
	2009-10	L.No. 2846/ 29.07.09	30.00	-	30.00	30.00	-	Land acquisition and other works for NPGCL
	2009-10	L.No. 2845/ 29.07.09	2.14	-	2.14	2.14	-	Extension project MTPS 2 x 250 MW
	2009-10	L.No. 1341/ 26.03.10	180.00	-	180.00	180.00	-	Extension project MTPS 2 x 250 MW
	2009-10	L.No. 1342/ 26.03.10	29.28	-	29.28	29.28	-	Extension project MTPS 2 x 250 MW
	2009-10	L.No. 1343/ 26.03.10	33.00	-	33.00	33.00	-	Land acquisition and other works for NPGCL
		Total	414.42	-	414.42	414.42	-	

Commission's Analysis

- 3.15.6 On scrutiny of the petition and the additional information furnished by the Board, the Commission observed that the loan amounts also included the payments due on capital liabilities which are created on account of defaults in the repayments done by BSEB in the past. As mentioned previously, the Commission does not agree to this treatment as the burden on account of defaults in making repayments should not be passed on to the consumers.
- 3.15.7 Further, the Commission has also taken into cognizance the fact that the interest booked by the Board under the head "Interest and Finance Charges" may also include the penal or additional interest incurred by the Board for defaulting on making timely repayments. Accordingly, the Commission will keep the above fact in mind while approving the Interest and finance charges. The Commission notes with concern that the Petitioner is diverting its long-term fund for the purpose of meeting its deficit caused due to its own inefficiencies. The Commission directs the Petitioner to abstain from diversion of funds meant for creating long-term assets.
- 3.15.8 In absence of the adequate data/ information with BSEB regarding the details of the capital expenditure incurred during the year, its funding, capitalisation of assets, etc., the Commission has adopted the same methodology as applied while truing up of costs for FY 2006-07 to FY 2008-09. The Commission has used the normative closing balance of loan (Rs. 512.32 Cr.) as arrived in true up of FY 2008-09 as the

opening outstanding loans as on 1st April 2009 for computation of Interest and finance charges for FY 2009-10.

- 3.15.9 The Commission has also outlined the methodology adopted for estimating the additional borrowings during the FY 2009-10 for funding the assets getting capitalised during the year after considering the amount available in the form of consumer contributions and grant / subsidy towards cost of capital assets during the year as well as balance amount (Rs. 184.05 Cr.) of contribution, Grants and subsidies towards cost of capital assets to be capitalised in subsequent years. The amount of Rs. 184.05 Cr. was arrived at while truing up of FY 2008-09 wherein the Commission had stated that

“5.17.15 As can be seen from the above, the consumer contribution, grants / subsidies towards cost of capital assets received during the year is much more than the assets capitalised during the year. Based on the same, the assets capitalised during the year are assumed to be entirely being funded through the consumer contribution, grants / subsidies towards cost of capital assets received during the year and hence, there is no requirement of loan funding against assets capitalised during the year. After accounting for the same, the remaining quantum of Rs. 184.05 Cr. against consumer contribution, grants / subsidies towards cost of capital assets received during the year is assumed to be used for funding assets being capitalised in the subsequent years.”

- 3.15.10 In the absence of the adequate data with BSEB the Commission has considered the repayment during the year as per the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 reproduced as below:

“The repayment for the year of the tariff period 2009-14 shall be deemed to be equal to the depreciation allowed for that year”

- 3.15.11 Based on the above methodology, the opening loan as on 1st April 2009 considered for computing interest cost for FY 2009-10 has been taken equal to closing normative loan for FY 2008-09 as Rs. 512.32 Cr. as per the true-up order issued by the Commission on 4th January 2012 for FY 2006-07, FY 2007-08 and FY 2008-09.

- 3.15.12 The BERC Tariff Regulations provide for recovery of interest and finance charges on loans which have been utilised to create assets and are eligible for recovery only after the assets have been put to use. The normative outstanding loan as on 1st

April 2009 is considered to be used for creation of assets which have been put to use and hence the interest against this loan is considered for recovery from consumers. In addition to this, there will be certain additional loans which will be eligible for recovery of interest on account of capitalisation of assets achieved during the FY 2009-10.

3.15.13 The assets capitalised during the year comprises of a combination of assets created out of the CWIP at the beginning of the year and part of the assets capitalised during the year are created out of investments done during the year itself. This break-up is not available in the audited annual accounts. While, it is desirable to understand the bifurcation of these assets capitalised i.e. assets created out of capitalisation of CWIP at the beginning of the year and those created through capitalisation of investments done during the year, the same may not be possible looking at the availability of information with the Commission and from the data made available by BSEB.

3.15.14 Accordingly, the Commission has considered the assets capitalised during the year as being first funded through the consumer contributions and grants/subsidy towards capital assets received during FY 2009-10 and the remaining portion of the assets getting capitalised during FY 2009-10 is assumed to be funded through additional loans received during FY 2009-10. At the same time, any amount of contribution and grants / subsidy towards capital assets available after this adjustment will be considered as having funded assets which would be capitalised in the subsequent years. While, the Commission understands that this method has its own limitations, however, the Commission has no other option but to adopt this method till the time BSEB is able to improve the availability of qualitative information to enable the Commission to approve the interest expenses based on actual information.

3.15.15 Based on the above, the methodology for determining the additional loans drawn during the year and eligible for recovery of interest charges based on the above discussion is exhibited in the table below:

Table 37: Estimation of loan against assets getting capitalized during FY 2009-10 (Rs. Cr)

Particulars	Amount
Total Assets Capitalised During the year (A)	308.29

Particulars	Amount
Contribution, Grants and subsidies towards Cost of Capital Assets during the FY 2009-10 (B)	129.98
Balance contribution, Grants and subsidies towards Cost of Capital Assets (As per True up Order for FY 2008-09) (C)	184.05
Estimated Funding through Loans (A – B – C)	-
Contribution, Grants and subsidies towards Cost of Capital Assets to be capitalised in subsequent years (B + C – A)	5.73

3.15.16 As can be seen from the above, the consumer contribution, grants / subsidies towards cost of capital assets received during FY 2009-10 and the balance of the consumer contribution, grants / subsidies towards cost of capital assets taken from true up order for FY 2008-09 is more than the assets capitalised during the year. Based on the same, the assets capitalised during the year are assumed to be entirely being funded through the consumer contribution, grants / subsidies towards cost of capital assets received during the year and hence, there is no requirement of loan funding against assets capitalised during the year. After accounting for the same, the remaining quantum of Rs.5.73 Cr. against consumer contribution, grants / subsidies towards cost of capital assets received during the year is assumed to be used for funding assets being capitalised in the subsequent years.

3.15.17 In line with the methodology adopted in the truing up for the FY 2006-07 to FY 2008-09, the Commission has approved an effective interest rate of 11.10% for the FY 2009-10. The details are as given in the table given below.

Table 38: Computation of effective Rate of Interest for FY 2009-10 (Rs. Cr.)

Loan type	State Government Loans (Plan)	REC	PFC	Total
Opening Balance	1,046.54	136.46	281.33	1,464
Additions	414.42	5.23	-	420
Repayment	-	42.96	35.51	78
Closing Balance	1,460.96	98.74	245.82	1,806
Interest	150.31	-	31.13	181
Average Loan during the year	1,253.75	117.60	263.57	1,635
Average Rate of Interest	11.99%	0.00%	11.81%	11.10%

3.15.18 As per the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 as mentioned in 3.14.10 the repayment has been considered to be equal to the depreciation allowed for that year.

3.15.19 On the basis of the methodology mentioned above, the Commission approves the interest and finance charges for FY 2009-10, as given in the table below:

Table 39: Summary of approved Interest and finance charges for FY 2009-10 (Rs. Cr.)

Particular	Amount
Opening Balance (As per True up Order for FY 2006-07 to FY 2008-09)	512.32
Additions	-
Repayment	46.79
Closing Balance	465.53
Average Loan during the year	488.93
Interest Rate	11.10%
Interest & Finance Charges	54.26

3.15.20 **Accordingly, the Commission approves the interest and finance charges of Rs.54.26 Cr. for the FY 2009-10.**

3.16 Interest on Working Capital

Petitioner's submission

3.16.1 The BERC has submitted that the Terms and Condition of Tariff Regulation 2007 provide for recovery of the interest on working capital from the consumers on a normative basis. The principles for this normative computation have been prescribed in the regulations and are different for generation function and transmission & distribution function.

3.16.2 BSEB has submitted that it has calculated the interest on Working Capital based on the normative principles outlined by the Commission in its Terms and Conditions of Tariff Regulations, 2007 and sought for approval of the same from the Commission.

3.16.3 The Petitioner has submitted the details of interest on working capital requirement for FY 2009-10 in the formats submitted along with its Petition. As per the submission, the Petitioner has considered the following components for calculating its interest on working capital requirements:

Table 40: Proposed Interest on working capital for FY 2009-10 (Rs. Cr.)

Sl.	Particulars	FY 2009-10 (Actual)
1	Two (2) months of Fuel cost (Primary and Secondary)	11.11
2	One month O&M expenses of BSEB	68.55
3	Receivables (two (2) months of fixed and variable charges of BSEB)	554.53
4	Maintenance spares (@ 1% of GFA escalated at 6% per annum)	36.49

Sl.	Particulars	FY 2009-10 (Actual)
5	Total Working Capital Requirement	670.69
6	Interest Rate (SBI PLR as on 1st April, 2009)	11.75%
7	Interest on Working Capital	78.81

Commission's Analysis

- 3.16.4 BSEB has included the resource gap grant received from the State Government in the form of payment of part of power purchase cost to NTPC as receivable for the purpose of calculation of working capital. State Government has paid part of power purchase cost to NTPC directly and treated it as resource gap grant to BSEB. Commission observes that BSEB does not have to arrange working capital for payment of this amount to NTPC and therefore, it should not be included in two months receivable for the purpose of calculation of working capital.
- 3.16.5 The State Govt. makes the payment of power purchase cost directly to NTPC on receipt of the bill every month. Only the balance amount of the power purchase received from NTPC is paid by BSEB from its working capital and receivables. BSEB does not have to arrange working capital for payment to NTPC the amount which is paid directly by the State Govt. to NTPC. Therefore, the payment made by the State Govt. directly to NTPC should not be included in two months' receivables of BSEB as part of the working capital requirement. Similarly, in the true up exercise for the period of FY 2006-07 to FY 2008-09 also, the resource gap grant received from the Government has not been considered as receivable for the purpose of computation of interest on normative working capital.
- 3.16.6 Accordingly, based on the principles prescribed in the BERC Terms and conditions of Tariff Regulations 2007, the information available in the audited annual accounts and the observation of the Commission, the Commission approves the Interest on Working Capital of Rs.54.36 Crores as against that of Rs. 78.81 Crores submitted by BSEB for FY 2009-10 as shown in the table below.

Table 41: Summary of approved Interest on working capital (Rs. Cr.)

Sl.	Particulars	Now approved in True-up for FY 2009-10
1	Two (2) months of Fuel cost (Primary and Secondary)	10.46
2	One month O&M expenses of BSEB	54.41
3	Receivables (two (2) months of fixed and variable charges of BSEB)	345.13
4	Maintenance spares (@ 1% of GFA escalated at 6% per annum)	33.78

Sl.	Particulars	Now approved in True-up for FY 2009-10
5	Total Working Capital Requirement	443.79
6	Interest Rate (SBI PLR as on 1st April, 2009)	12.25%
7	Interest on Working Capital	54.36

3.16.7 **Therefore, the Commission approves Rs. 54.36 Cr. as the interest on working capital for FY 2009-10.**

3.17 Return on Equity (ROE)

Petitioner's submission

3.17.1 Bihar State Electricity Board is an integrated electricity utility constituted under Clause 5, Chapter – III of The Electricity (Supply) Act, 1948. The Board is mainly funded through loans and grants from the Government of Bihar, loans and grants under specialized funding schemes of the Government of India and loans from commercial lending organizations.

3.17.2 BSEB has requested the Commission to approve a reasonable return at the rate of 14% on the capital grant provided by the State Government. It has submitted that as BSEB is a board and not a company so the equity contribution can come only by way of Grant and not equity. In view of the same, the Commission is requested to provide reasonable return on the capital provided by the State Government. Accordingly, BSEB has sought approval for Return on Equity of Rs 85.52 Cr. for the purpose of true-up of FY 2009-10.

Commission's Analysis

3.17.3 The Commission had not approved any Return in Equity for BSEB in the Tariff Order issued for FY 2006-07 or FY 2008-09 or during the review process undertaken for the FY 2006-07 or FY 2008-09. BSEB also had not sought any return at that point of time.

3.17.4 The Commission is of the view that "Return is admissible only on equity actually deployed for the creation of assets. Since, BSEB has not been corporatized; it does not have any equity. The Commission has considered entire assets base funded through loan/ grant and accordingly interest has been allowed."

3.17.5 Accordingly, the Commission continues with the stand taken in the past tariff orders and no Return on Equity is permitted for BSEB in truing up of FY 2009-10.

3.18 Taxes

3.18.1 BSEB submitted that there are no expenses under this head for FY 2009-10 hence no expense is being claimed under Taxes.

3.19 Other Debits & Extraordinary Items

Petitioner's submission

3.19.1 The petitioner submitted that the expenses incurred under head of other debits & extraordinary items by BSEB for FY 2009-10 are Rs. 0.32 Cr. hence requested the Hon'ble Commission to allow the same.

Commission's Analysis

3.19.2 The Commission approves Rs. 0.32 Cr. under the head 'Other Debits & Extraordinary Items' based on the annual accounts of FY 2009-10.

3.20 Prior Period Credits / (Charges)

Petitioner's submission

3.20.1 BSEB in its true-up petition has stated that the Commission has started issuing Tariff Order from FY 2006-07 and hence any expense/income incurred/accrued and not accounted in respective year but considered in future year as prior period credits/ (charges) should be adjusted while calculating ARR. As the Commission's first Tariff Order was issued for FY 2006-07 and hence BSEB has only considered expense/income incurred/accrued after 1st April, 2006.

3.20.2 Based on the above discussed principal, BSEB has calculated prior period credits/ (charges) for FY 2009-10. Prior Period Credits/ (Charges) for FY 2009-10 are for a period after 1st April, 2006 and hence total income of Rs. 84.29 Cr. pertaining to the period prior to 1st April, 2006 is proposed to be passed on to the consumers. However, BSEB has used Rs. 129.15 Cr. as prior period Credits/ (Charges) while computing the Revenue Gap for the FY 2009-10.

Commission's Analysis

3.20.3 The Commission had sought clarification from BSEB regarding the variation in the amount sought for Prior Period Credits/ (Charges) for FY 2009-10 and the nature of these charges to enable the Commission to take appropriate decision. In response, BSEB has provided a break-up of the prior-period items vide letter No. Com/Pet-136/2011-147 dated 20.01.2012 as mentioned below:

Table 42: Prior Period Credits / (Charges) for the FY 2009-10 (Rs. Cr.)

Particulars	Amount
O & M expenses	(0.22)
Administration Expenses	(1.29)
Energy Charges	86.61
Interest & Finance Charges	(8.93)
Penalty	0.26
Employee's Cost	7.86
Total	84.29

3.20.4 On scrutiny of the data furnished by BSEB it was observed by the Commission that an amount of Rs. 8.93 Cr. has been shown as interest and finance charges for the period of FY 2008-09. The Commission is of the view that, the applicable interest and finance charges has already been allowed for FY 2008-09 in the truing up order for FY 2008-09 on normative basis based on the data/ information furnished by BSEB and the methodology adopted by the Commission for computation of interest and finance charges. Accordingly the Commission has considered the prior period credit without taking the effect of interest and finance charges.

3.20.5 Accordingly, the Commission approves the Prior Period Credits of Rs. 93.22 Cr. for the FY 2009-10.

3.21 Non-Tariff Income

Petitioner's submission

3.21.1 The Petitioner in the true-up Petition of FY 2009-10 submitted the non-tariff income as Rs. 89.56 Cr. for FY 2009-10. The detailed break-up of non-tariff income claimed by the Petitioner is as below:

Table 43: Proposed Non-Tariff Income (Rs Cr.) for FY 2009-10

Sl.	Particulars	2009-10 (Actual)
1	Meter/Service rent	144,488,053
2	Late payment surcharge (on basis of Collection)	

Sl.	Particulars	2009-10 (Actual)
3	Theft / pilferage of energy	-
4	Misc. receipts	24,952,703
5	Misc. charges (except PLEC)	85,794,576
6	Wheeling charges	-
7	Interest on staff loans & advance	46,214
8	Income from trading	5,560,201
9	Income from welfare activities	-
10	Rental Tender Registration fee	-
11	Interest of Bank Deposit	411,589,113
12	Rebate & discount received	205,816,402
13	Incentive for timely payment of installment against loan to PFC	17,341,035
14	Incentive for timely payment of installment against power purchase bills	-
15	Total Income	895,588,297
16	Add Prior period income	-
17	Total Non-tariff income	895,588,297

3.21.2 The Petitioner has also submitted that it has proposed all other values as per audited annual accounts of the Board except for delayed payment surcharge from consumers, for which the petitioner has requested that the DPS may not be considered while considering Non-Tariff Income for the purpose of ARR determination.

3.21.3 The petitioner has submitted that for the purpose of ARR determination revenue from tariff is considered on accrual basis i.e. amount billed by BSEB. However the Board is not able to collect the entire amount and the revenue collected (cash basis) is lower than the amount billed. In order to fund this gap (receivables so created), BSEB has to borrow higher amount (than allowed by the Hon'ble Commission) for its increased working capital requirement. The delayed payment surcharges are payable by the consumers on such unpaid amounts. In the Annual Accounts the revenue (on the income side) is on billed basis (accrual) but the borrowings for increased working capital also get reflected as increased interest cost under the Interest and Finance Charges account. Thus in a way Delayed Payment surcharges are sources of fund for funding this increased working capital. Further, the Board has submitted that the Hon'ble Commission considers revenue on accrual basis and the working capital requirement though computed on normative basis does not take into consideration the increased receivable (beyond the norms of 2 month) amount that has to funded by BSEB. If BSEB were to collect the entire amount that it has billed there would be no income from surcharge (no receivable would exists) however the Hon'ble

Commission considers income from DPS. BSEB on this account is doubly penalized. The income is considered on accrual basis and simultaneously DPS is also considered in the ARR.

Commission's analysis

3.21.4 The Commission has adopted the approach on Non-tariff income in line with the recent judgement of Hon'ble Appellate Tribunal for Electricity (APTEL) dt. 12.07.2011 in Case no 142 & 147 of 2009.

3.21.5 The relevant extracts of the Judgment are reproduced below:

"The normative working capital compensates the distribution company in delay for the 2 months credit period which is given to the consumers. The late payment surcharge is only if the delay is more than the normative credit period. For the period of delay beyond normative period, the distribution company has to be compensated with the cost of such additional financing. It is not the case of the Appellant that the late payment surcharge should not be treated as a non-tariff income. The Appellant is only praying that the financing cost is involved due to late payment and as such the Appellant is entitled to the compensation to incur such additional financing cost. Therefore, the financing cost of outstanding dues, i.e. the entire principal amount, should be allowed and it should not be limited to late payment surcharge amount alone. Further, the interest rate which is fixed as 9% is not the prevalent market Lending Rate due to increase in Prime Lending Rate since 2004-05. Therefore, the State Commission is directed to rectify its computation of the financing cost relating to the late payment surcharge for the FY 2007-08 at the prevalent market lending rate during that period keeping in view the prevailing Prime Lending Rate".

3.21.6 As per annual accounts of the Board for FY 2009-10, the Non-Tariff Income of BSEB is Rs. 117.39 Cr. out of which, Delay Payment Surcharges from Consumers is Rs. 27.83 Cr. As the Petitioner charges DPS @ 18% per annum (1.5% per month), the principal amount on which DPS has been charged will be 154.64 Cr.

3.21.7 As prevailing SBI PLR as on April 1, 2009 was 12.25%, the Commission has allowed the financing cost for DPS @ 12.25%. The financing cost approved by the Commission is shown below:

Table 44: Funding of DPS (Rs. Cr.)

Particular	FY 2009-10
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Particular	FY 2009-10
DPS as per annual accounts of FY 2009-10 (@ 1.5% per month) (A)	27.83
Principal amount on which DPS was charged (B = A / 18%)	154.64
Interest Rate for funding of Principle of DPS	12.25%
Interest on funding of Principal amount of DPS	18.94

3.21.8 Hence, the Commission has computed the amount of Non-Tariff Income as summarised below:

Table 45: Trued-up Non-Tariff Income approved (Rs. Cr.)

Particular	FY 2009-10
Non-Tariff Income as per the Annual accounts	
Interest on Staff Loan & Advance	0.005
Income from Investment (F.D)	41.16
Interest on Loan & advance to licensees	-
D.P.S from Consumer	27.83
Interest on advance to Supplier/Contractor	-
Interest from Bank (Other than F.D.)	-
Income from Trading	0.56
Income from Staff Welfare activities	-
Miscellaneous Receipt	2.50
Rebate and discount Received	20.58
Incentive for timely payment of power purchase bills	-
Incentive for timely payment of installment against Loan to PFC	1.73
Meter Rent/Service Line Rental	14.45
Miscellaneous Recoveries	8.58
Total Non-Tariff Income	117.39
Less: Financing cost of Principle amount of D.P.S.	18.94
Net Non-Tariff Income	98.45

3.21.9 *Therefore, the Commission approves Rs. 98.45 Cr. as Non-Tariff Income for FY 2009-10, against the Petitioner's claim of Rs. 89.56 Cr.*

Table 46: Non-Tariff Income (Rs. Cr.)

Particular	Petitioner's Submission	Now approved in True-up for FY 2009-10
Non-Tariff Income	89.56	98.45

3.22 Revenue from the sale of Power

Petitioner's submission

3.22.1 BSEB has requested the Commission to approve the total Revenue from the sale of Power of Rs 1838.49 Cr. as per the audited annual accounts of BSEB.

Commission's analysis

3.22.2 The Commission approves the revenue from sale of power of Rs. 1838.49 Cr. as per the audited accounts of the Petitioner.

3.23 Grant / Revenue Subsidy from State Government*Petitioner's submission*

3.23.1 BSEB in its true-up petition for the FY 2009-10 has requested the Commission to treat the resource gap funding to BSEB by the State government as resource gap/ subsidy intended to first use/ compensate BSEB for meeting the losses suffered by BSEB on account of expenditure accruing due to difference in actual T&D loss of BSEB vis-à-vis T&D losses allowed by the Hon'ble Commission and balance amount if any should be taken as subsidy to Agriculture and rural consumers of BSEB.

3.23.2 BSEB has submitted that it has not been able to meet the loss trajectory as approved by the Commission on account of various reasons including condition of the network, defective consumer meters, unmetered consumers, massive and large scale electrification of villages under RGGVY scheme leading to expansion of rural distribution network, etc. BSEB has further submitted that though it has taken up steps towards improving the performance, the results have not been as per the requirement.

3.23.3 BSEB has further submitted that the Hon'ble Commission has also appreciated this fact in its Tariff Order for FY 2011-12 dated 1st June, 2011, while disallowing the request of BSEB for re-fixing higher T&D loss reduction trajectory, at para 4.3.3 observing that "if BSEB is not able to meet loss reduction trajectory due to implementation of Government sponsored RGGVY scheme, then it should ask for subsidy to compensate for the increased T&D losses". BSEB being a Government of Bihar entity, the un-bridged expenditure gap has to be met either by revenue income from tariff fixed by the Commission for the different categories of consumers or to be met as subsidy/resource gap by the Government of Bihar.

3.23.4 Accordingly, BSEB had approached the Government of Bihar for financial assistance to bridge the resource gap arises out of increasing T&D losses. The Government of Bihar has provided financial assistance to BSEB to meet the aforesaid resource gap which was Rs. 90 Cr. per month in FY 2009-10 to meet ever increasing resource gap

on account of expanding rural network and consequent increasing T&D losses beyond allowed trajectory of T&D losses.

- 3.23.5 BSEB has further contended that while determining ARR, the Commission had considered this resource gap funding by the Government of Bihar as income to BSEB treating it as subsidy to consumers by the Government of Bihar and to that extent all the consumers across the board are subsidised by the Commission while fixing tariff for different consumer categories. Therefore, even though BSEB receives the resource gap for meeting the revenue deficit for bridging the gap between the expenditure vis-à-vis revenue, BSEB remains in perpetual loss due to aforesaid treatment of the resource gap by the Commission in its tariff orders.
- 3.23.6 In line with the above submission, BSEB has requested the Commission to consider Rs. 541.53 Cr. after adjusting the disallowed power purchase cost of Rs. 298.47 Cr. as available resource gap funding for reducing the Aggregate Revenue Requirement to arrive at the revenue gap for FY 2009-10.

Commission's analysis

- 3.23.7 The Commission has examined the contention of the Board and is not in agreement with the proposed post-facto adjustment of the revenue resource gap during the truing up process. The Commission is also in receipt of the copy of the letter from the Energy Department, Govt. of Bihar dated 19/9/11 outlining the priority of use of the resource gap funding provided by the Govt. to BSEB. The views of the Commission in the matter are expressed in subsequent paragraphs.
- 3.23.8 The Commission has been treating the resource gap funding available from the Govt. of Bihar (GoB) for the purpose of reducing the approved ARR of BSEB thus subsidising the consumers in Bihar. The treatment adopted by the Commission is based on the submission of BSEB in its tariff filings. Certain references in this regards from the Commission's past Tariff Orders and BSEB tariff filings are highlighted below.

BERC Tariff Order for FY 2006-07:

"6.12 GRANT FROM STATE GOVERNMENT

The State Government in letter No.1412 dated 26.4.2006 communicated sanction of a grant of Rs.720 crore as a resource gap during 2006-07 towards payment of power purchase bills of NTPC. This grant also figures in the Volume-III of the tariff

petition submitted by BSEB vide letter dated 22.05.2006. The Commission considered the Rs.720 crore as a resource to cover the revenue gap during 2006-07.”

Tariff Filing by BSEB in FY 2008-09:

“12.0 Net Deficit

12.01 Considering the ARR for FY09 and income from existing tariff and non tariff income, the net deficit comes to Rs. 1022.83 crores.

12.02 State Govt. Grant

State Govt. of Bihar has issued orders for release of Rs. 60 crores per month for payment of energy bills of NTPC during FY08. Considering that same level of grant from State Govt. ie amount of Rs. 720 crores will be available during FY09, then the deficit for FY09 will get reduced from Rs. 1022.83 crores to Rs. 302.83 crores.”

Tariff Filing by BSEB in FY 2010-11:

“18.00 Net Deficit

18.01 State Govt. Grant & subsidy

The State Govt. has been providing a fixed grant of Rs. 720 crores per year during FY07, FY08, FY09 and FY10 to meet part of resource gap. No direct subsidy to any particular category of consumers has been specified by the State Govt. However, from December 09 State Govt. is paying Rs90 Cr./month . It is expected that in FY11 the State Govt. will provide Rs 1080 Cr. to Board. The tariff rate to most of the category of consumers has been subsidised. Board is expecting that during FY11 State Govt.'s grant of Rs.1080 cores will be paid to BSEB.

18.02 Considering the ARR for FY11 and income from existing tariff and non tariff income and the state Govt. grant of Rs. 1080 crores the net deficit comes to Rs. 578.65 crores.”

3.23.9 As can be seen from the above reference, the revenue resource gap has always been proposed by the Board for reducing the net deficit in the ARR and thus subsidising the consumers in Bihar. The Commission had also aligned its approach with the suggestion of the licensee and accordingly has already passed on the benefit of the resource gap received from the GoB to the consumers in the past tariff orders. The letter from GoB received in the past in this regards also did not mention the priority of usage as outlined in the latest letter dated 19/09/11 and only mentioned that the support is being made available for payment of dues of NTPC against power purchase.

3.23.10 Accordingly, the Commission does not agree with the prayer of the Board to adjust the dis-allowed power purchase expenses in the resource gap funding and then use the remaining amount for subsidising the consumers. The Commission retains the resource gap of Rs. 840 Cr. received from Government of Bihar as Grant / Revenue subsidy amount for FY 2009-10. The revenue gap for the FY 2009-10 will be computed considering the same.

3.24 Approved ARR and Revenue Gap for FY 2009-10

3.24.1 In view of the above analysis, the annual revenue requirement along with the revenues at existing tariffs and revenue gap for FY 2009-10 is summarized hereunder:

Table 47: Summary of Trued up ARR and Revenue gap for FY 2009-10 (Rs Cr.)

Description	As per BSEB True up petition	As per Audited Annual Account	Now Approved in True up
Power Purchase Cost	2,529.46	2,529.46	2,529.46
Own Generation Cost	66.66	70.31	62.76
Repair & Maintenance Expenses	58.24	54.59	58.24
Employees Cost	729.95	560.26	560.26
Admin & General Expenses	34.47	34.47	34.47
Depreciation	59.72	59.72	46.79
Interest & Finance Charges	201.22	924.21	54.26
Interest on Working Capital	78.81	53.32	54.36
Return on Equity	85.52	-	-
Other Debits and extraordinary Items	0.32	0.32	0.32
Less: Prior Period Credits / (Charges)	129.15	84.29	93.22
Total Revenue Requirement	3,715.22		3,307.70
Less: Expenditure disallowed due to higher T&D losses	298.47		298.47
Less: Non-Tariff Income	89.56	117.39	98.45
Net Revenue Requirement	3,327.19		2,910.78
Revenue from sale of Power	1,838.50	1,838.50	1,838.50
Grant from Govt.	541.53	840.00	840.00
Total Gap	947.16		232.28

3.24.2 The trued up revenue gap as approved by the Commission for FY 2009-10 amounts to Rs 232.28 Cr. as against revenue gap of Rs 947.16 Cr. submitted by the Petitioner in the True up Petition of FY 2009-10.

3.24.3 The BERC Tariff Regulations provide for Revenue gap of next year to be adjusted as a result of Review and Truing up exercises. Further, while approving adjustments towards revenue / expenses in future years, arising out of Review / Truing up

exercises, the Commission may allow the carrying costs as determined by the Commission of such expenses / revenues. However, such carrying costs shall be limited to the interest rate approved for working capital borrowings.

3.24.4 Accordingly, the revenue gap arising out of the truing up for FY 2009-10 may be adjusted in the revenue gap for FY 2012-13 which has been filed by BSEB for approval by the Commission.

3.24.5 However, as regards permitting the carrying costs on the revenue gap arising out of the truing up exercise, the Commission is of the view that the additional cost on account of delayed filing should not be passed on to the consumers. Accordingly, the truing up for FY 2009-10 should have been filed along with the Tariff petition for FY 2011-12 assuming that the review would have been ideally carried out along with the ARR & Tariff filing for FY 2010-11. Accordingly, the Commission approves carrying cost for one and half year (FY 2010-11 entire year and FY 2011-12 half year assuming that the recovery would have been done over the year) amounting to Rs. 42.39 Cr. on the revenue gap for FY 2009-10 arising on account of the truing up exercise.

3.24.6 ***The net revenue gap to be carried forward after the truing up exercise for FY 2009-10 is Rs 274.67 Cr.***

4 Summary of Order

4.1 Summary of Truing Up

4.1.1 As discussed in the previous chapters, the Commission has permitted limited carrying cost on the revenue gap for FY 2009-10, which is resulting out of the truing up exercise for the FY 2006-07, FY 2007-08 and FY 2008-09 is as outlined in the table given below:

Table 48: Summary of the Carrying cost permitted (Rs Cr.)

Sl.	Particulars	Approved truing up Gap with carrying cost for FY 2009-10
1.	Trued up Revenue Gap approved for FY 2009-10	232.28
2.	Carrying cost for FY 2010-11 (SBI PLR @ 11.75%)	27.29
3.	Carrying cost for six (6) months during FY 2011-12 (SBI PLR @ 13%)	15.10
4.	Total Gap with Carrying cost	274.67

4.1.2 As can be seen from the above, the total revenue gap which will be carried forward to the ARR of the subsequent year for adjustment will Rs. **274.67** Cr. Treatment of this gap of this revenue gap will be considered at the time of determination of ARR for FY 2012-13.

Sd/-
(S. C. Jha)
Member

Sd/-
(R. N. Sharma)
Member

Sd/-
(U. N. Panjiar)
Chairman