

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

OP No. 1 OF 2025 & IA No. 1403 OF 2025 & IA No. 1404 OF 2025 & IA
No. 1532 OF 2025 & IA No. 1610 OF 2025 & IA No. 1747 OF 2025

Dated: 2nd December, 2025

Present: Hon`ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon`ble Mr. Ajay Talegaonkar, Technical Member (Electricity)

In the matter of:

In Suo-Motu action under Section 121 of the EA Petitioner(s)

Versus

Forum of Regulators & Ors. Respondent(s)

Counsel on record for the Petitioner(s) : Anushree Bardhan
Shikha Ohri
for App. 1

Counsel on record for the Respondent(s) : Poorva Saigal
Shubham Arya
Pallavi Saigal
Reeha Singh
Rishabh Saxena
Harshvardhan Singh
Shirin Gupta
for Res. 1

C.K. Rai
Shiva Singh
Anuradha Roy
Vinay Kumar Gupta
for Res. 2

C.K. Rai
for Res. 3

Anand K. Ganesan
Swapna Seshadri
Utkarsh Singh
Sneha Singh Baghel
for Res. 4

M. T. George
for Res. 5

Sahil Chandra
for Res. 6

Ravi Kishore
for Res. 7

Rutwik Panda
Anshu Malik
for Res. 8

Gargi Kumar
for Res. 9

Dhananjay Baijal
for Res. 10

Pratibhanu Singh Kharola
for Res. 11

Sethu Ramalingam
S. Shivshankari
for Res. 12

Pradeep Misra
for Res. 13

C.K. Rai
Shiva Singh
Anuradha Roy
Vinay Kumar Gupta
for Res. 14

Somanadri Goud Katam
for Res. 15

Shlok Chandra
for Res. 16

Suparna Srivastava
for Res. 17

Mandakini Ghosh
for Res. 18

Gaichangpou Gangmei

Arjun D Singh
Yimyang Longkumer
Maitreya Mahaley
for Res. 19

Aishwarya Subramani
Harsha V Rao
Anand K. Ganesan
for Res. 20

Suriti Chowdhary
Anuj Bhave
Abiha Zaidi
Pritam Raman Giriya
for Res. 21

Mandakini Ghosh
for Res. 22

Anish Roy
for Res. 23

Farrukh Rasheed
for Res. 24

Rohini Prasad
for Res. 25

Sriram Krishna
Anupama Dhurve
for Res. 26

Shri Venkatesh
Suhael Buttan
Nihal Bhardwaj
Abhishek Nangia
Kartikay Trivedi
Surbhi Kapoor
Shivam Kumar
Punyam Bhutani
Nikunj Bhatnagar
Tarang Saraogi
Ananya Dutta
Shryeshth Ramesh Sharma
Kanika Chugh
Priya Dhankar
Mohit Mansharamani
Mohit Gupta

Indu Uttara
Harsh Vardhan
Vedant Choudhary
Adarsh Singh
Drishti Rathi
Ashutosh Kumar Srivastava
Akash Lamba
Siddharth Nigotia
Vineet Kumar
Manu Tiwari
Kunal Veer Chopra
Tanishka Khatana
Aashwyn Singh
Aniket Kanhaua
Manav Bhatia
for Res. 27

C.K. Rai
Anuradha Roy
Vinay Kumar Gupta
Shiva Singh
for Res. 28

Surabhi Pandey
for Res. 29

Abiha Zaidi
Suriti Chowdhary
Pritam Raman Giriya
Anuj Bhawe
for Res. 30

Vishrov Mukerjee
Janmali Gopal Rao Manikala
Nishtha Kumar
Yashaswi Kant
Pratyush Singh
Damodar Solanki
Priyanka Vyas
Juhi Senguttuvan
Anumeha Smiti
Garima Adlakha
Sai Snigdha Nittala
Snehal Upadhyay
for Res. 31

Amit Kapur
Anupam Varma

Rahul Kinra
Aditya Gupta
Aditya Ajay
Girdhar Gopal Khattar
Isnain Muzamil
Adamyia Ojha
Yash Srivastava
Vaibhav Sharma
for Res. 32

Amit Kapur
Anupam Varma
Rahul Kinra
Aditya Gupta
Aditya Ajay
Girdhar Gopal Khattar
Isnain Muzamil
Adamyia Ojha
Yash Srivastava
Vaibhav Sharma
for Res. 33

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Adarsh Singh
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for Res. 34

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Manav Bhatia
Drishti Rathi
for Res. 35

Shri Venkatesh
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Surbhi Kapoor

Adarsh Singh
Siddharth Nigotia
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for Res. 36

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Tarang Saraogi
Manav Bhatia
Drishti Rathi
for Res. 37

S. Vallinayagam
for Res. 38

ORDER

1. KERALA STATE ELECTRICITY REGULATORY COMMISSION (KSERC): R-5

We had, in our order dated 25.11.2025, noted that the Kerala State Electricity Regulatory Commission (KSERC), while stating that the regulatory assets would be liquidated within 48 months from 01.04.2027 till 31.03.2031, did not state as to whether or not the regulatory assets would be liquidated in equal annual instalments. We had, therefore, sought an affidavit in this regard from the KSERC. An affidavit is now filed stating that the entire balance regulatory assets, of Rs. 4995.301 crores, would be liquidated in four equal instalments commencing from 01.04.2027 till 31.03.2031. The assurance now given by the KSERC is in terms of the judgment of the Supreme Court dated 06.08.2025 as modified by the order dated 28.10.2025.

What is, however, disconcerting, and appears to us to be a dilatory tactic, is the submission of the KSERC regarding appointment of an auditor to conduct the intensive audit in terms of the directions of the Supreme Court in its order dated 06.08.2024. We had, in our earlier order dated 25.11.2025, observed that mere correspondence between the

KSERC and the Accountant General, Kerala would not suffice; no response was forthcoming from the office of the Accountant General despite two letters having been addressed to them by the KSERC; the order of the Supreme Court dated 06.08.2025 did not obligate KSERC to appoint an auditor only after obtaining a panel from the office of the Accountant-General; and the KSERC ought to be conscious of its role as an independent regulator and of its obligation to comply with the directions of the Supreme Court.

In the affidavit filed today, on behalf of the KSERC, all that is stated is that the Accountant General, Kerala had informed the KSERC, vide letter dated 25.11.2025, that the matter had been referred to the office of the Comptroller and Auditor General of India. As noted by us, in our earlier order dated 25.11.2025, the order of the Supreme Court does not obligate the KSERC to appoint an auditor only from the panel approved either by the Accountant General or by the Comptroller and Auditor General of India. As there is undue delay on their part in sending a panel, nothing prevents the KSERC from inviting bids from qualified Chartered Accountants, appoint the most suitable among them as an auditor to conduct the intensive audit, and thereby ensure compliance of the order of the Supreme Court. Awaiting a panel from the Accountant General, and refraining from taking action regarding appointment of an auditor to conduct the intensive audit on the specious plea that the Accountant General has, in turn, sought a panel from the Comptroller and Auditor General, does appear to be a ruse to avoid compliance with the directions of the Supreme Court in its order dated 06.08.2025. The KSERC shall, before the next date of hearing, ensure compliance with the directions of the Supreme Court in its order dated 06.08.2025, and commence the process of inviting bids for appointment of an auditor, if need be a qualified

Chartered Accountant, in case the Comptroller and Auditor General of India does not recommend a panel of auditors in the meanwhile.

Post the matter on **16.12.2025.**

2. ORISSA STATE ELECTRICITY REGULATORY COMMISSION (OERC): R-8

We had in our order dated 25.11.2025 noted that, while the Orissa State Electricity Commission (OERC) had stated that it would liquidate the trued up amount of Rs. 280.06 crores in equal instalments over a five-year period from FY 2026-27 to 2030-31 to prevent tariff shock to the consumers, the affidavit filed on their behalf was silent regarding provision for carrying cost.

In the affidavit, now filed on behalf of the OERC, it is stated that carrying cost shall be provided, on the revenue gap as reflected in its order dated 24.03.2025, to the concerned discoms i.e. TPCODL and TPSODL. The affidavit, now filed on behalf of the OERC, is in terms of the directions issued by the Supreme Court in its order dated 06.08.2025 as modified by its order dated 28.10.2025.

3. DELHI ELECTRICITY REGULATORY COMMISSION (DERC): R-10

It does appear, from the affidavit filed today i.e. on 02.12.2025. that the DERC intends to liquidate the accumulated regulatory assets not over a seven-year period commencing from 01.04.2024, but over a period of around six years eight months commencing from 06.08.2025 (ie the date on which the Supreme Court passed the order) till 31.03.2032. In other words, they intend passing tariff orders annually during the seven-year

period commencing from 01.04.2026 till 01.04.2032, thereby liquidating the accumulated regulatory asset along with carrying cost, by 31.03.2032.

The submission urged on behalf of the Delhi Discoms, which also appears to accord with the understanding of almost all the other Regulatory Commissions in the country, is that the 7 year period for liquidation of the regulatory assets in its entirety along with carrying cost, in terms of the orders of the Supreme Court dated 06.08.2025 as modified by the order dated 28.10.2025, should commence from 01.04.2024 and not 06.08.2025 and, consequently, the regulatory assets must be liquidated, in terms of Rule 23 of the Electricity Rules, 2005, in equal annual instalments over the ensuing 5 year period i.e. from 2026-27 till FY 2030-31.

Since Para 71(VI) of the order of the Supreme Court dated 06.08.2025 gives the regulatory Commissions elbow room with respect to the period from when liquidation of the Regulatory Assets should commence, the DERC may be justified in its contention that they intend recovering the regulatory assets, in equated annual instalments only from FY 2026-27 ie from 01.04.2026.

We find it difficult, however, to agree with the submission of Mr. Nikhil Nayyar, Learned Senior Counsel appearing on behalf of the DERC, that the judgment of the Supreme Court dated 06.08.2025, as modified by its order dated 28.10.2025, permits the DERC to liquidate the entire regulatory assets along with carrying cost over a period of 7 years (or to be more precise around six years eight months ie from 06.08.2025 till 31.03.2032) by passing tariff orders in each of the six ensuing financial years commencing from 01.04.2026.

Sri. Nikhil Nayyar, Learned Senior Counsel, would seek to justify his afore-said submission contending that Para 71(V) of the order of the Supreme Court dated 06.08.2025 should be read independent of Para 71(VI) thereof. Para 71(V) of the order of the Supreme Court dated 06.08.2025, prior to its modification by order dated 28.10.2025, required the existing regulatory assets to be liquidated within a maximum of four years starting from 01.04.2024 taking Rule 23 as the guiding principle. As noted by us earlier, Para 71(V) of the order of the Supreme Court dated 06.08.2025 stood substituted by the subsequent Order dated 28.10.2025, and now requires the existing regulatory assets to be liquidated in a maximum of seven years as provided in Rule 23 of the Electricity Amendment Rules, 2024.

The 3rd proviso to Rule 23 of the Electricity Rules, 2005 (as amended on 11.01.2024) stipulates that any gap between the approved ARR and the estimated annual revenue from approved tariff, existing on the date of notification of these Rules (ie 11.01.2024) as amended from time to time, shall be liquidated in a maximum of seven number of equal yearly instalments starting from the next financial year. The words “*next financial year*”, as referred to in the 3rd proviso Rule 23, would mean the next financial year after 11.01.2024 (when the amendment came into force) ie the Financial Year commencing from FY 2024-25 ie the Financial Year from 01.04.2024 till 31.03.2025.

In this context, it is also useful to refer to the observations of the Supreme Court in Para 67.4 of its order dated 06.08.2025 which reads thus:

“We have dealt with the legal regime in detail and have also extracted the relevant provisions, rules, regulations, policies, instructions and precedents. A combined effect of these can be restated as follows: (i)

As a first principle, tariff shall be cost-reflective; (ii) The revenue gap between the approved ARR and the estimated annual revenue from approved tariff must be only in exceptional circumstances; (iii) The regulatory asset should not exceed a reasonable percentage, which can be arrived on the basis of Rule 23 of the Electricity Rules that prescribes 3% of the ARR as the guiding principle; (iv) If a regulatory asset is created, it must be liquidated within a period of 3 years from 01.04.2024, taking Rule 23 as the guiding principle; (v) The existing regulatory asset must be liquidated in a maximum of 7 years starting from 01.04.2024, taking Rule 23 as the guiding principle; and (vi) Regulatory Commissions must provide the trajectory and roadmap for liquidation of the regulatory asset, which will include a provision for dealing with carrying costs. Regulatory Commissions must also undertake strict and intensive audit of the circumstances in which the distribution companies have continued without recovery of the regulatory asset”.

It is after considering the scope and ambit of Rule 23 of the Electricity Rules, 2005 that the Supreme Court, in the afore-extracted Para, made it clear that the existing regulatory assets must be liquidated in a maximum of 7 years starting from 01.04.2024. Consequently, the seven-year period for liquidation of the entire regulatory asset along with carrying cost must, in view of Rule 23 of the Electricity Rules, 2005 should be computed from 01.04.2024, and liquidated latest by 31.03.2031. Accepting the submission, urged on behalf of the DERC, would not only result in contravention of Rule 23 of the Electricity Rules, 2005, but would also fall foul of the observations of the Supreme Court in its judgment dated 06.08.2025 as modified by its order dated 28.10.2025.

In this context, it is useful to note that what has been amended by the order dated 28.10.2025 is only Para 71(V) of the order of the Supreme Court dated 06.08.2025, and both Paras 67.4 and 71 (VI) have not been subjected to any modification. We must express our inability to agree with

the submission of Sri Nikhil Nayyar, Learned Senior Counsel, that Para 71(VI) of the Judgement of the Supreme Court dated 06.08.2025 should be read independent of Para 71(V); what was directed by the Supreme Court was only for the regulatory assets to be liquidated within 7 years; and that the said Order does not refer to the date from which this 7 year period should commence.

Accepting such a contention would also result in absurd consequences, for there may well be some part of the unliquidated regulatory assets, in certain cases, which may relate to periods long prior to 01.04.2024. If we were to presume, as the DERC wants us to, that no date, from which the regulatory asset should be liquidated, is specified in the order of the Supreme Court dated 06.08.2025, as modified by the subsequent order dated 28.10.2025, it may well render the stipulation of recovery in seven years impossible of compliance, for the seven-year period, within which the regulatory assets should be liquidated, should then be computed from the year in which the regulatory asset was created and, in some cases, the 7 year recovery period may itself have expired long prior to 01.04.2024.

The submission that the seven-year period should be understood as commencing from 06.08.2025 (ie the date on which the Supreme Court passed the order) does not also merit acceptance. Firstly, because the order does not so specifically stipulate, and secondly, as Judgements of Superior Courts, unlike Legislation (plenary or subordinate), are not to be understood as applicable prospectively. We are, therefore, of the view that, whichever be the year in which these regulatory assets were created, what the Regulatory Commissions are obligated to do, in terms of the order of the Supreme Court, is to quantify the entire outstanding regulatory assets, on completion of the true-up exercise, as on 01.04.2024 and

liquidate the quantified regulatory assets, along with carrying cost till the entire regulatory assets are liquidated, within a period of 7 years from 01.04.2024 i.e. latest by 31.03.2031.

In so far as carrying cost (ie the interest component) is concerned, while the 3rd proviso to Rule 23 of the Electricity Rules requires carrying cost to be paid at the base rate of late payment surcharge as specified in the Electricity (late payment surcharge and related matters) Rules, 2022 as amended from time to time, it does appear from the affidavit filed on behalf of the DERC that they intend computing carrying cost, on the outstanding Regulatory Assets, as per the Business Plan Regulations of the Commission. It is not in dispute that carrying cost, in terms of the Business Plan Regulations of the DERC, varies from the carrying cost stipulated in the 3rd proviso to Rule 23 of the Electricity Rules. The justification put-forth in this regard by Mr. Nikhil Nayyar, Learned Senior Counsel, is that the Supreme Court had so permitted them in Para 67.3 of its order dated 06.08.2025. It is useful, therefore, to quote Para 67.3 of the order of the Supreme Court in its entirety:

“67.3 The creation of a regulatory asset, being a measure undertaken by the Regulatory Commissions as part of tariff determination, such exercise is informed by Section 61 read with Sections 79 and 86. It is also important to note that Rules made by the Central Government under Section 176 are binding on the Regulatory Commissions when they make regulations because Sections 178 and 181 provide that the "Commission may make regulations consistent with the Act and the rules". In any event of the matter, the principle that one must adopt is that the adverse effect of an overbearing regulatory asset extended beyond proportion is an anathema to good governance of the Electricity Act. It affects every stakeholder, the worst of all being the consumer who is

burdened, rather over-burdened, from time to time because of the lapses of the regulators or the manipulation of the utilities or the indifference of the government. Therefore, the principle formulated in Rule 23, consistent with Clause 8.2.2 of the National Tariff Policy, 2016 and the scheme of the Act, must be the normative principle which must invariably be followed. Wherever Rule 23 is incorporated into the Tariff Determination Regulations of the State Commission, it shall be complied with.”

It is clear, from a reading of the afore-extracted para, that the Regulations to be made by the Commission must be consistent with the Rules made by the Govt. of India; and, wherever Rule 23 is incorporated into the Tariff Determination Regulations of the State Commission, it shall be complied with. Sri. Nikhil Nayyar, Learned Senior Counsel, would contend that it is only if the DERC had framed Regulations after the Rules were made by the Central Govt. would they have been required to ensure that the Regulations so framed did not fall foul of the Electricity Rules and since, in the present case, the Business Plan Regulations were made by the DERC in the year 2023, prior to when the Electricity Rules were amended on 11.01.2024, it is the carrying cost stipulated in the Business Plan Regulations which are applicable, and not the Electricity Rules, 2005. We must express our inability to agree.

Section 176 of the Electricity Act confers power on the Central Govt. to make Rules. Section 181 confers power on the State Commission to make Regulations. Section 181(1) enables the State Commission, by notification, to make Regulations consistent with the Electricity Act and the Rules generally to carry out the provisions of the Electricity Act. In cases where Rules have already been made by the Central Govt, the State Commission is obligated, in terms of Section 181(1) of the Electricity Act, to make Regulations consistent with the Electricity Rules in force.

Since primacy is given by the Electricity Act to the Rule making power of the Central Govt, over and above the Regulations making power of the Regulatory Commissions, any prior Regulations made by the State Commission would cease to operate once Rules to the contrary are made by the Central Govt. Para 67.3 of the order of the Supreme Court dated 06.08.2025 must be read as a whole and in its entirety. Reading one sentence in the said paragraph in isolation, and out of context, is impermissible (**State of Orissa v. Sudhansu Sekhar Misra; AIR 1968 SC 647; Sri Konaseema Cooperative Central Bank Ltd. v. N. Seetharama Raju, AIR 1990 AP 171; Kanwar Amninder Singh v. High Court of Uttarakhand and another, 2018 SCC OnLine UTT 1026**), for it is well settled that judgments ought not to be read as statutes. (**Bharat Petroleum Corpn. Ltd. v. N.R. Vairamani, (2004) 8 SCC 579; London Graving Dock Co. Ltd. v. Horton [1951 AC 737 : (1951) 2 All ER 1 (HL); Bharat Petroleum Corpn. Ltd. v. N.R. Vairamani, (2004) 8 SCC 579; Rajbir Singh Dalal (Dr.) v. Chaudhari Devi Lal University, (2008) 9 SCC 284; C. Ronald v. UT, Andaman & Nicobar Islands, (2011) 12 SCC 428**).

We are satisfied, therefore, that the carrying cost, which the DERC is required to provide, must also be in terms of the 3rd proviso to Rule 23 of the Electricity Rules, 2005 as amended on 11.01.2024, and not in terms of the earlier Business Plan Regulations made by the DERC in the year 2023. The DERC shall file an affidavit, furnishing details of the trajectory/roadmap for liquidation of the accumulated regulatory assets as on 01.04.2024 along with carrying cost, on or before 31.03.2031, and in terms of what we have held in this order, latest by **05.01.2026**.

List the matter on **08.01.2026**.

IA No.1747 of 2025
(for directions) (R-32)(R-33)

We had, by our order dated 25.11.2025, directed the DERC to file their reply to the said IA by 08.12.2025. Mr. Nikhil Nayyar, Learned Senior Counsel, while stating that the reply would be filed by that date, requests that hearing of this IA also be taken up on 08.01.2026.

List IA No. 1747 of 2025 on **08.01.2026**.

IA 1403 of 2025 & IA 1404 of 2025 2025
(for impleadment/intervention)

This IA has filed by the generating companies, owned by the Delhi Government, which are supplying power to the Delhi Distribution licensees. While the prayer for impleadment, as sought in the IAs, seem innocuous, a reading of para 13 of the said IA shows that the applicants seek recovery of their dues from the Delhi Distribution licensees simultaneously with their regulatory assets being liquidated in terms of the directions of the Supreme Court.

While the larger question as to whether we can issue any direction in this regard, when the order of the Supreme Court does not relate to these aspects, would necessitate examination, we would like to ascertain the views of the DERC and the Delhi Distribution licensees on the averments of the applicants in these IAs, especially para 13 as aforementioned.

Let notice be issued in these IAs to the DERC and the Delhi Distribution licensees. Dasti is permitted.

List the IAs on **08.01.2026**.

IA 1532 of 2025
(for impleadment/intervention)

This IA has been filed by Delhi Transco Limited. The relief sought by them is similar to the relief sought for in IA No. 1403 & 1404 of 2025. While the applicant in this IA is a transmission utility, the applicants in IA. No.1403 and 1404 of 2025 are generating companies.

Let notice also be issued in this IA to the DERC and the Delhi Distribution licensees. Dasti is permitted.

List the IAs on **08.01.2026**.

4. TAMIL NADU ELECTRICITY REGULATORY COMMISSION (TNERC): R-12

We had, in our earlier order dated 25.11.2025, noted that the affidavit, filed by the TNERC earlier, was silent regarding recovery of carrying cost for delayed liquidation of the regulatory assets, and had granted one weeks' time for an affidavit to be filed furnishing details of the mode and manner in which the Commission intends to ensure recovery of the carrying cost on delayed liquidation of the regulatory assets. In so far as appointment of an auditor is concerned, we had, in our order dated 25.11.2025, directed the TNERC to file an affidavit explaining why the Commission could not appoint an auditor on its own, since there was complete lack of urgency being shown, on the part of the Accountant General office, in recommending the names of Auditors for conducting the intensive audit.

In the affidavit filed today, the Secretary of the TNERC states that the Government of Tamil Nadu has a 100% loss funding policy which takes care of carrying cost; the Govt. of Tamil Nadu has, vide G.OMS-38 dated 18.08.2021, committed to fund 100% of the distribution licencees'

book losses from FY 2021-22 onwards, and this includes revenue interest on borrowing cost which represents the carrying cost; the distribution licensee has historically borrowed funds to meet revenue shortfalls and has booked interest and finance charges in its profit and loss account; all such expenses, including interest towards regulatory asset financing, have been reimbursed through the Government of Tamil Nadu loss funding; levy of carrying cost would lead to double recovery of the same interest first from the Govt. of Tamil Nadu, and the second from the consumers; and the distribution licensee has not borne any unrecovered financing burden which is a pre-condition for carrying cost.

What the TNERC appears to have lost sight of is that it is an independent regulator entrusted with certain functions and duties under the Electricity Act. Besides the fact that any revenue gap in the tariff order passed by the Commission, (which in effect constitutes the regulatory asset), if not liquidated in a timely manner, would require interest (carrying cost) to be paid thereon till it is liquidated in its entirety, the order of the Supreme Court dated 06.08.2025 also requires carrying cost to be paid on the unliquidated regulatory asset till the said regulatory asset is liquidated in its entirety. It was incumbent on the TNERC, both statutorily and in compliance with the afore-said order of the Supreme Court, to compute carrying cost on the unliquidated regulatory assets as on 01.04.2024, till the said regulatory assets are liquidated in its entirety over the next five years i.e. from FY 2026-27 till FY 2030-31. The TNERC does not appear to have undertaken any such exercise, though the order of the Supreme dated 06.08.2025 obligated it not only to quantify the regulatory assets as on 01.04.2024 by passing true up orders till the financial year 2023-24, but also to compute and provide carrying cost thereon till the entire regulatory assets, so quantified, are liquidated in its entirety.

The TNERC seeks to justify its inaction by contending that the Government of Tamil Nadu is bearing the entire loss which the distribution licensee may suffer from each year. What is permissible under Section 65 of the Electricity Act is for the State Govt. to provide subsidy by making such payment in advance. In its earlier affidavit, the TNERC has stated that the regulatory assets (without carrying cost) would be liquidated on funds being provided annually by the State Govt over the next five years; and, on failure of the State Govt. to pay the said amount, the TNERC would, by way of tariff orders, pass on the said burden to the consumers in the ensuing financial years. What the Commission has not undertaken is the task of computing carrying cost on the unliquidated regulatory assets as on 01.04.2024 which they are obligated to do. The TNERC cannot shift the onus on the State Govt. for at least two reasons. Firstly, the directions of the Supreme Court, in its order dated 06.08.2025, has placed the responsibility of undertaking such an exercise on the TNERC. Secondly, it is TNERC which alone is amenable to our jurisdiction and whose compliance, of the order of the Supreme Court, we have been directed to monitor and ensure implementation of. The question whether the State Govt. has wiped off the losses of the distribution utility is wholly extraneous to such an exercise, and does not absolve the TNERC of its obligations to compute carrying cost, and recover carrying cost till the regulatory assets as on 01.04.2024 are liquidated in its entirety.

In so far as appointment of the auditor is concerned, the stand taken by the TNERC is that appointment of an auditor has acquired pan India ramifications, and hence the object would only be achieved by appointing an auditor who is simultaneous conducting audits in other States. In this context, it is useful to note that, except for the States of Tamil Nadu and Kerala, most of the other Regulatory Commissions in the Country, where Regulatory Assets have been created, have either already appointed an

auditor or are in the process of appointing the auditor. In some cases, the audit report is expected to be submitted by the auditor by mid-January, 2026, a little more than a month from now. The TNERC appears to be evading its obligations of complying with the order of the Supreme Court by shifting the onus, to appoint the auditor, on to the Accountant General. The order of the Supreme Court does not require the TNERC to appoint an auditor only from the panel recommended by the Accountant General. The TNERC was not disabled from inviting bids from eligible Chartered Accountants and selecting, from among them, the Chartered Accountant best suited for this purpose. The affidavits, filed so far, give us the impression that the endeavour of the TNERC is to avoid an audit being conducted, into issues which the Supreme Court has directed examination of, at the earliest.

Such evasive and vague affidavits do not merit acceptance. Conscious as we are that the power of contempt has not been explicitly conferred on this Tribunal under, and the proviso to Section 146 excludes its application to orders passed under Section 121 of, the Electricity Act, we were initially inclined to submit a report to the Supreme Court conveying our inability to ensure compliance of its directions by the TNERC, and bringing to their notice the evasive affidavits filed by the said Commission. We refrain from doing so for the present and, instead, direct the TNERC to file a compliance affidavit on the aforesaid aspects within one week from today.

List the matter on 09.12.2025, on which date the Secretary of the TNERC shall be physically present before this Tribunal to explain why the TNERC is avoiding compliance of the directions of the Supreme Court.

5. WEST BENGAL ELECTRICITY REGULATORY COMMISSION (TNERC): R-18

An affidavit was filed on behalf of the WBERC on 01.12.2025, wherein it is stated that the Regulatory Assets of WBSEDCL as on 01.04.2024 were Rs. 3934.36 crores; the Regulatory Assets created after 01.04.2024 was for Rs. 5921.23 Crores; a part of the said amount has already been liquidated, along with carrying cost, for Rs. 4369.52 Crores; and the balance Regulatory Asset as on date is Rs. 3559.57 crores. Similar information is furnished with respect to CESC and it is stated that the entire Regulatory Asset, along with carrying cost, has been liquidated by 31.03.2025 and there are no regulatory assets remaining to be liquidated in so far as CESC is concerned. In so far as DVC is concerned, it is stated that the balance Regulatory Asset as on date is Rs.189.49 Crores, and the balance Regulatory Asset as on date, with respect to IPCL, is Rs. 62.40 Crores. The WBERC further states that these Regulatory Assets would be liquidated in five equal instalments during FY 2026-2027 to FY 2030 -2031; the Regulatory Assets for IPCL includes a revenue gap of Rs. 37.50 Crores, and the said amount may change after true up of FY 2023-2024; and carrying cost on the Regulatory Assets would be allowed on actual liquidation of the Regulatory Asset.

6. RAJASTHAN ELECTRICITY REGULATORY COMMISSION (RERC): R-20

An affidavit is filed by the RERC gives details of the Regulatory Assets separately for JVVNL, AVVNL and JDVVNL. The total Regulatory Assets up to FY 2025-2026, after levy of regulatory surcharge, for JVVNL is said to be Rs. 16394 crores, for AVVNL it is Rs. 8458 crores and for JDVVNL it is Rs. 15362 crores i.e. a total of Rs. 40214 crores. It is further state that the said Regulatory Assets would be liquidated, in terms of Rule 23 of the Electricity Rules, in equal annual instalments during the next five-year period FY 2026-2027 to FY 2030-2031 along with carrying cost.

With regards selection of an Auditor, it is stated that the process for selection is under progress and would be completed by December, 2025 and the Audit shall be completed within three months from issuance of the work order.

List the matter on **08.01.2026.**

Ajay Talegaonkar
Technical Member (Electricity)
sk/mkj

Justice Ramesh Ranganathan
Chairperson