



## BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA

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(Regd. Post)

**Appeal No.** : 4 of 2025  
**Registered on** : 22.01.2025  
**Date of Order** : 04.07.2025

**In the matter of:**

**Appeal against the order passed by CGRF DHBVN Gurugram on 18.12.2024 in Case No DH/CGRF 4741/2024.**

M/s Delhi Metro Rail Corporation Ltd. Faridabad, RSS Electrical Sub Station, DMRC Ltd. Sec-46, Faridabad.

**Appellant**

Versus

1. The Executive Engineer Operation, DHBVN, Old Faridabad
2. The SDO (Operation), DHBVN, Sub Division Sec-21, Faridabad

**Respondent**

**Before:**

Shri Rakesh Kumar Khanna, Electricity Ombudsman

**Present on behalf of Appellant:**

Shri R.R. Panda, Advocate

Shri Shubham Kumar, ASE/DMRC

Shri Dev Dutt, Engineer

**Present on behalf of Respondents:**

Smt. Sonia Madan, Advocate

Shri Lovepreet Singh, Advocate

### ORDER

**A.** Shri Pankaj Kumar Gupta, General Manager/ Traction, DMRC has filed an appeal against the order dated 18.12.2024 passed by CGRF, DHBVNL, Gurugram in complaint No. DH/ CGRF 4741/2024. The appellant has requested the following relief: -

1. That, the present appeal is against the CGRF, DHBVN Order dated 8-12-2024.
2. That the CGRF has wrongly categorised the auxiliary load of DMRC as Non-Domestic load.
3. That, the Load of DMRC can be broadly categorized into three categories.
  - a) DMRC Traction Load
  - b) DMRC Auxiliary Load
  - c) Commercial Load of consumers within the premises of DMRC to whom space has been leased out by DMRC
4. That, Haryana Electricity Regulatory Commission had created a separate tariff category "DMRC" under section 62(3) of the Electricity Act, 2003.

Extract of Tariff order FY 2010-11 (Serial No 10 (page number 139 of the Tariff Order) is reproduced below;

10. Delhi Metro Rail Corporation (DMRC):

DHBVNL vide their memo no. Ch-4 /SE/RA-346 dated 3/06/2009 submitted that from September 2009, the DMRC proposes to open its link to Gurgaon. For the purpose of their operations in the State of Haryana they have applied for electricity connections. As per the proposed terms of agreement DHBVNL has decided to provide electricity connection to DMRC on 66 KV. The CoS based on FY 2009-10 ARR has been worked out by DHBVNL as 397 Paisa / Unit. On the basis of CoS DHBVNL has proposed a separate tariff category for DMRC.

The Commission has considered the petition of DHBVNL and is of the view that DMRC will be providing state – of- the art services to a large number of passengers’ commuting between Gurgaon and the National Capital Territory of Delhi. The Commission also notes that DMRC will not be catering to any freight movements which may augment its revenue and hence make – up for the shortfall, if any, from earnings from the passenger fare. DMRC is expected to emerge as the preferred source of travel which will greatly contribute to de-congestion of road traffic thereby not only save precious time but also help in reducing environmental pollution from vehicular emissions. Consequently, for DMRC the Commission fixes two part tariff in line with the CoS as estimated in FY 2010-11.

However, the power supplied to various commercial establishments, hoardings, lighting etc. shall be charged at the rates determined by the Commission for those purposes i.e. in the tariff category that they fall.

5. That, the Hon’ble Commission has clearly specified that,
- a) The operational load of DMRC i.e. traction and its auxiliary load will be billed on DMRC Tariff.
  - b) The power supplied to various commercial establishment charged in the tariff category that they fall i.e. Non-Domestic.

In compliance of the Commission’s order, DMRC is paying the tariff difference for the power supplied to various commercial establishments, hoardings, lighting etc.

6. That, the State Commission notified on 22<sup>nd</sup> April, 2020, the Haryana Electricity Regulatory Commission (Single Point Supply to Employers' Colonies, Group Housing Societies and Residential or Residential cum Commercial/ Commercial Complexes of Developers and Industrial Estates/ IT parks/SEZ) Regulations, 2020. The Commission has reiterated the same classification and billing in case of DMRC.

In regulation 5.2, the Commission has clarified as under;

*"Delhi Metro Rail Corporation shall also be provided supply at single point for its traction and other load including the load of various individual consumers of the space leased by it in its various metro stations for commercial activities at the tariff specified by the Commission. However, such commercial loads shall be metered separately and billed to the Delhi Metro by the licensee at NDS tariff in the single point supply bill".*

7. That, the CGRF has misinterpreted the regulation and has put the auxiliary loads of DMRC in the NDS tariff category. The NDS tariff is applicable only to the commercial establishments which are operating in the DMRC premises on the space leased out to them.
8. That, the respondent licensee had raised a short assessment of Rs 1, 33, 99,732/- for the period July 2020 to May 2021 by adding the auxiliary load of DMRC to the load of commercial establishments operating in its premises, which was objected by the petitioner vide complaint no CMPF14000618967 dated 24.11.2023. DMRC had already paid the tariff difference of NDS and DMRC tariff in respect of the commercial establishments, to the licensee.
9. That, the respondent revised assessment to Rs 46, 43,661 by excluding the commercial load for which DMRC has already paid the tariff difference (of NDS & DMRC tariff) and communicated to the petitioner vide letter dated 20.01.2024 (Page No 11-17 of the Original Petition). In this assessment the auxiliary load of DMRC was treated as Non Domestic.
10. That, Delhi Metro Rail Corporation Limited is a 66 kV Consumer of the licensee, DHBVN and is bearing all the line and distribution losses. It falls in the extra high voltage category as defined in Rule 2(1) (av) of Indian Electricity Rule, 1956 which is reproduced below;

"Voltage" means the difference of electric potential measured in volts between any two conductors or between any part of either conductor and the earth as measured by a suitable voltmeter and is said to be;



“Low” where the voltage does not exceed 250 volts under normal conditions subject, however, to the percentage variation allowed by these rules;

“Medium” where the voltage does not exceed 650 volts under normal conditions subject, however, to the percentage variation allowed by these rules;

“High” where the voltage does not exceed 33,000 volts under normal conditions subject, however, to the percentage variation allowed by these rules;

“Extra high” where the voltage exceeds 33,000 volts under normal conditions subject, however, to the percentage variation allowed by these rules.

11. That, HERC has not determined the tariff for extra high voltage consumers falling in the Non-Domestic Category in the FY 2020-21. In the short assessment of Rs 46, 43,661/-, the respondent licensee DHBVN has bifurcated the load of DMRC into a) Traction Load and b) Auxiliary Load (Para-3 of the Rejoinder)

- (i) The Traction Load has been billed @Rs 6.45/ kVAh at Industrial Tariff (HT Industry above 50 kW, supply at 66 kV or higher) which is 20 paise more than the approved tariff for DMRC.
- (ii) The Auxiliary Load has been billed @ Rs 6.65/kVAh at Industrial Tariff (HT Industry above 50 kW, supply at 11 kV) which is 40 paise more than the approved tariff for DMRC.

Whereas, there is a separate tariff category for DMRC in the tariff schedule for the Financial Year 2020-21 which is reproduced below;

Sr No	Category of Consumer	Energy Charges (Paisha/kWh/kVAh)	Fixed Charges (Rs/ kW/ Month, Rs/kVA/Month)
9	DMRC		
	Supply at 66 kV or 132 kV	625/kVAh	160/kVA

12. That, in view of the facts mentioned above, the distribution licensee has encroached upon the functions of Hon’ble Commission and created a new Tariff Category for DMRC by treating traction load as Industrial load at 66kV and Auxiliary Load as Industrial load at 11kV. Thereby overcharging

the petitioner by Rs 46, 43,661/- in violation of Tariff Schedule as fixed by the Hon'ble Commission for the FY 2020-21.

13. That, in the matter of Dilip Buildcon Limited & National Highway Authority of India Ltd Vs MERC and MSEDCL {Appeal No 230 of 2024}, it was held by the APTEL that “the power to determine tariff and to classify consumers of the electricity into different categories is conferred, with respect to consumers of electricity supplied by distribution licensees, only on the State commissions under Section 62(3) of the Electricity Act.”

14. That, in the following states, the Metro Tariff is applicable to both traction as well as auxiliary loads of metro;

Tamil Nadu: Chennai Metro Rail Corporation (CMRL)- TNERC in its tariff order for the FY 2024-25 {Page No-29} has mentioned the following regarding applicability of Metro Tariff;

“All the connected loads of CMRL. Loads other than CMRL like ATM, Kiosks, stalls, hotels, etc. which are operated by third parties of private agencies shall be separately metered and charged under applicable LT miscellaneous category and the above consumption shall be deducted from the total energy consumption recorded in the main meter at the CMRL's point of supply.

Kerala: Kochi Metro Rail Corporation Ltd (KMRL): KSERC in the order dated 12-07-2017 {Page no-9} has mentioned the following;

“The traction supply is allowed to be extended to feed the auxiliary loads such as stations, train control, signalling, telecommunication, passenger information display, public address system, ticketing, air-conditioning for technical equipment rooms, passenger amenities and Safety services etc. at the stations. Accordingly, there is no separate tariff for the metro stations of KMRL”.

Uttar Pradesh: UPERC vide its order dated 13.12.2018 {Para-11} has mentioned that, the DMRC Traction and its auxiliary consumption like supply for lifts, escalators, water supply shall be billed under HV-3(B) category.

Maharashtra: MERC has created a separate tariff category for Metro/Monorail. The electrical load of stations, workshops and yards have been included in the metro tariff. {Page- 467 of the Tariff order dated 31.03.2023}.

EHT IV and HT IV- Railways/Metro/Monorail: This Tariff category is applicable to power supply at Extra High Voltage (220 kV/132 kV/110 kV) and High Voltage (33 kV/22 kV/11 kV) for Railways, Metro and Monorail, including Stations and Shops, Workshops, Yards, etc.

15. That, the short assessment of Rs 46, 43,661 for the period July 2020 to May 2021 is in clear violation of Tariff Schedules as determined by the Hon'ble Haryana Electricity Regulatory Commission and will attract section 62(6) of the Electricity Act, 2003, which reproduced below;

"If a licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee."

**Prayer:**

In the aforesaid facts and circumstances, the Petitioner prays that this Hon'ble Ombudsman may be pleased to: -

- (a) Set aside the impugned order passed by the CGRF on 18.12.2024.
  - (b) Direction to DHBVN to withdraw the Short Assessment Bill of Rs 46, 43,661 for the period July 2020 to May 2021, which is in contravention to the HERC Tariff Order for the FY 2020-21.
  - (c) Direction to DHBVN to waive of the late payment surcharge levied on the above mentioned overcharged amount.
  - (d) Any other order in favour of the petitioner as the Hon'ble Ombudsman may deem fit.
- B.** The appeal was registered on 22.01.2025 as an appeal No. 4/2025 and accordingly, notice of motion to the Appellant and the Respondents was issued for hearing the matter on 04.02.2025.
- C.** Hearing was held on 04.02.2025, as scheduled. Both the parties were present during the hearing. At the outset, counsel for the appellant briefed the appeal and submitted that overcharging of Rs. 46,43,661/- for the period July 2020 to May 2021 may be withdrawn. The counsel for the respondent submitted that arguing counsel Ms. Sonia Madan engaged recently and requested for 15 days time to file the reply. The respondent SDO is directed to file point wise reply with



an advance copy to the appellant. The appellant is directed to submit rejoinder if any, in response to the reply submitted by respondent within 7 days on the receipt of the reply with a copy to the respondent. Acceding to the request of respondent, the matter is adjourned for hearing on 04.03.2025.

**D.** Vide email dated 28.02.2025, counsel for the respondent has submitted reply, which is reproduced as under:

1. The present reply is being filed through Sunil Datt working as SDO 'Op.' (hereinafter referred to as 'Respondent' / 'DHBVN'), who is competent to file the present reply as well as fully conversant with the facts and circumstances of the case on the basis of knowledge derived from the record. All submissions are made in the alternative and without prejudice to each other. Nothing submitted herein shall be deemed to be admitted unless the same has been admitted thereto specifically.

**Preliminary Submissions-**

2. At the outset, it is stated that save and except what has been specifically admitted in this Reply, each and every allegation, submission, contention and averment made by the Appellant shall be deemed to have been denied by the Respondent. It is submitted that the instant appeal is not maintainable and untenable as no grounds have been urged in the appeal for setting aside the Impugned Order. The Appeal is completely devoid of merit and bereft of substance, and is liable to be dismissed. All submissions are made in the alternative and without prejudice to each other.
3. By way of present Appeal, the Appellant has prayed for setting aside the order dated 18.12.2024 passed by the Corporate Consumer Grievances Redressal Forum (CGRF), vide which Ld. CGRF upheld the recovery to be made from the Appellant for an amount of Rs. 46,43,661/- as "*it has been charged for auxiliary load after Audit of account of DMRC as per SC.17/2020.*" The Appellant has further prayed for directions to the Respondent to withdraw the Short Assessment Bill amounting to Rs. 46,43,661/- for the period July, 2020 to May, 2021.
4. It is to be noted at the very outset that the sole grievance raised by the Appellant in the instant Appeal is the alleged categorisation of auxiliary

load/ non-traction load of DMRC in the Non-Domestic Supply Category and application of NDS tariff rate of Rs. 6.65/kVAh for the same as against the tariff specifically decided for DMRC as Rs. 6.45/kVAh by the Respondent. On this basis, the Appellant has disputed the recovery of Rs. 46,43,661/- to be affected from them towards the short assessment. It is submitted that the contentions of the Appellant and the reliefs sought vide the instant Appeal are meritless and untenable, as the recovery of Rs. 46,43,661/- pertains to July 2020 to April 2021 and in view of the prevailing rules and regulatory framework and tariff orders, the same is a legitimate charge arising due to the differential tariff applicable to the traction and non-traction load components of the connection sanctioned to the Appellant.

**Brief background:**

5. Delhi Metro Rail Corporation Ltd. / the Appellant is a consumer of DHBVN bearing account no. 2604540000 with a contract demand of 7.78 MVA for its Faridabad Receiving Sub-station. The Respondent released connection to DMRC under Railway Traction & DMRC Category on 66 KV voltage level.
6. It is pertinent to mention here that the Appellant/ DMRC, vide their letter dated 04.02.2015 to Executive Engineer, DHBVN, conveyed that the traction load per station for eight stations was 160 KVA each, amounting to a total traction load of 1280 KVA. Consequently, based on the DMRC's own submissions, its total sanctioned load of 7780 KVA was broadly categorized into two categories: i) Traction Load – 1280 KVA, which pertains exclusively to railway operations, including the movement of metro trains; and ii) Non-Traction Load – 6500 KVA (i.e., the total sanctioned load of 7780 KVA minus the traction load of 1280 KVA), which includes energy consumption for ancillary infrastructure such as commercial establishments, administrative buildings, street lighting, and other non-railway purposes.
7. Hon'ble Haryana Electricity Regulatory Commission (*HERC*), vide order dated 13.09.2010 in HERC PRO No. 3 of 2010 & HERC PRO No. 4 of 2010 on 'Aggregate Revenue Requirement of UHBVNL & DHBVNL for their distribution and retail supply businesses for FY 2010 - 11 & Distribution



and Retail Supply Tariff” (for brevity hereinafter referred as ‘Tariff Order for FY 2010-11’), had fixed two part tariff for supply of electricity connection to DMRC in line with Cost of Supply as estimated in FY 2010-11 as follows-

*Fixed Charge - Rs. 125 / KVA per month*

*Energy Charge - 395 paisa at 66 KV and 380 paisa at 132 KV*

It was further specifically stated by the Hon’ble Commission that the power supplied to various commercial establishments, hoarding, lighting etc. shall be charged at the rates determined by the Commission for those purposes, i.e. the tariff category that they fall in (refer internal page 140 of the Order).

8. In compliance of the Tariff Order for FY 2010-11 passed by the Hon’ble HERC, the Respondent implemented the Revised Schedule of Tariff approved by HERC vide Sales Circular No. D- 7/2010 dated 01.10.2010.
9. On 22.04.2020, the Hon’ble Commission notified The Haryana Electricity Regulatory Commission (Single Point Supply to Employers’ Colonies Group Housing Societies, Residential Colonies, Office cum Residential Complexes and Commercial Complexes of Developers, and Industrial Estates/IT Park/SEZ) Regulations, 2020. Regulation 5.2 of the aforementioned regulations stipulates as under-  
*“Delhi Metro Rail Corporation shall also be provided supply at single point for its traction and other load including the load of various individual consumers of the space leased by it in its various metro stations for commercial activities at the tariff specified by the Commission. However, such commercial loads shall be metered separately and billed to the Delhi Metro by the licensee at NDS tariff in the single point supply bill.”*
10. The foregoing regulations were implemented by the Respondent vide Sales Circular No. D-17/2020 dated 06.08.2020.
11. Subsequently, Hon’ble HERC vide order dated 01.06.2020 in HERC PRO 59 of 2019 and PRO 60 of 2019 on True-Up for FY 2018-19, Annual (Mid-year) Performance Review for the FY 2019-20, Aggregate Revenue Requirement of UHBVNL & DHBVNL for the MYT Control Period 2020-2021 to FY 2024-2025 and Distribution & Retail supply tariff for the FY 2020-201, considered various objections filed by the DMRC as regards determination of special tariff in respect of Delhi Metro Rail Corporation

Ltd and inclusion of directions regarding differential payment to DHBVNL & UHBVNL. In response to the objections of the DMRC, DHBVN filed its submissions wherein it was categorically stated that Nigam has provided special connections to DMRC for traction purpose only and electricity consumption against operations of DMRC Stations (excluding traction) does not fall under the said category. Hence, the DMRC station (excluding traction) is a commercial establishment and under prevailing regulations DMRC is required to take separate connection for operations of DMRC station (excluding traction), similar to the procedures being adopted in case of Railways and in line with the Hon'ble Commission's direction in its Tariff Order for FY 2010-11 dated 13.09.2010. After considering the objections of DMRC and response of the DHBVN, the Hon'ble Commission directed the Appellant / DMRC to deposit the difference between DMRC (Traction) Tariff and NDS Tariff as determined by the Commission into the accounts of the Discom concerned as per the billing cycle. Relevant extracts of HERC Order dated 01.06.2020 in HERC PRO 59 of 2019 and PRO 60 of 2019.

12. Thus, a perusal of the foregoing makes it abundantly clear that DMRC was obligated to deposit the difference between traction and non-traction tariff as per the proportionate load consumption for commercial establishments, lightings, hoarding, etc. as per the prevalent tariff order, rules and regulations.

13. For FY 2020-2021, the tariff category for DMRC in tariff schedule approved by HERC (w.e.f. 01.04.2021) & as per sales circular D14/2020 DHBVN was as follows-

*Fixed Charge - Rs. 160/ KVA per month*

*Energy Charge - 625 paisa / KVAh at 66 Kv or 132 KV*

14. The Hon'ble Commission, vide order dated 30.03.2021 in HERC/PRO - 77 of 2020 & HERC/PRO - 78 of 2020, observed that the electricity supply to the Railways for traction has different tariff for voltage levels ranging from 11 kV to 220 kV, and that there is a difference of 10 Paisa / Unit in traction supply vis-à-vis HT Supply up to the voltage level of 66/132 kV and demand charges are lower by Rs. 10 / kVA per months as compared to the HT Supply. Hence, the Commission considered it appropriate to

merge the Railway Traction Supply / DMRC with the HT supply at the relevant voltage level. The tariff schedule was revised as follows-

Tariff for FY 2020-2021 (w.e.f. 01.06.2020)			Tariff for FY 2021-22 (w.e.f. 01.04.2021)	
Category of consumer	Energy Charges (Paisa / kWh or/ kVAh)	Fixed Charge (Rs. per kW per month of the connected load / per kVA of sanctioned contract demand)	Energy Charges (Paisa / kWh or/ kVAh)	Fixed Charge (Rs. per kW per month of the connected load / per kVA of sanctioned contract demand)
DMRC Supply at 66 kV or 132 kV	625/kVAh	160/kVA	<b>Merged with HT Supply Tariff</b>	

Relevant Extracts of the HERC Order dated 30.03.2021 in HERC/PRO - 77 of 2020 & HERC/PRO - 78 of 2020.

15. In compliance of the order dated 30.03.2021 passed by the Hon'ble HERC, the Respondent implemented the Revised Schedule of Tariff vide Sales Circular No. D-12/2021 dated 30.04.2021, and the DMRC tariff & NDS tariff were merged.
16. It is pertinent to submit here that till the time of passing of order dated 30.03.2021, whereby the DMRC tariff was merged with HT supply, the position with respect to separate billing of the non-traction load, i.e. commercial establishments, lighting, hoarding, etc. and the deposit of differential tariff amount by DMRC was categorically clear.
17. In March 2023, the Internal Revenue Department of the Respondent conducted an internal audit, which identified inadvertent discrepancies in DMRC's billing. As a result, a Half Margin Memo (Book No. 2022/61/002 dated 17.03.2023) was rightly issued, directing that an amount of Rs. 1,33,99,732/- be recovered from DMRC in accordance with Sales Circular No. D-17/2020, after due verification of records. The relevant extract of the half margin memo is being extracted hereunder for ready reference-  
*"Less Billing as per Sale Circular no. D-17/2020-  
Account No. 2604540000*

...

*During the checking of audit it is found that a connection A/c No. 2604540000 was release to Company Secretary DMRC against the SL-7000 and CD- 7780 against the category traction of the metro Railway during checking the record it is found that the billing of the auxiliary load*



*against the metro not raised by the S/Divn. Hence as per Sale Circular No.- D-17/2020 the billing should be done as per the auxiliary load resulting an amount Rs 13399732/- may be charged after the due verification of record...”*

18. In the present case, it is submitted that the consumption of non-traction load by DMRC is charged on the NDS tariff in compliance with the HERC Tariff Order for FY 2010-11. However, pursuant to the internal audit and further verification carried out, it was observed that for the period July 2020 to April 2021, the differential tariff between traction and non-traction load was not duly accounted for in the bills raised by the Respondent, resulting in an under-billing and consequent short assessment of Rs. 46,43,661/-.
19. It is also pertinent to note here that while the initial audit identified short billing for July 2020 to September 2022, amounting to Rs. 1,33,99,732/-, however, since the tariff for DMRC was merged along with the NDS tariff w.e.f. 01.04.2021, after verification of record, the correct short assessment amount *qua* DMRC for the period July 2020 to April 2021, i.e. prior to the merging of tariff for FY 2021 - 2022, was worked out to Rs. 46,43,661/-.
20. Accordingly, the Respondent vide letter dated 20.01.2024 to DMRC, raised a demand for Rs. 46,43,661/-, categorically intimating that the amount charged is the difference in the tariff for traction load and non-traction load. Thereafter, Respondent raised the revised bill on 11.05.2024. It is submitted that nowhere in the appeal, the correctness of actual usage of electricity units as reflected in the revised bill has been challenged by the Appellant.
21. However, despite the aforementioned factual and regulatory clarity, the Appellant has disregarded the justification and rationale behind the short assessment and has erroneously challenged the bill of Rs. 46,43,661/- raised by the Respondent. In light of the foregoing, it is reiterated that:
  - DMRC’s non-traction load consumption i.e. various commercial establishment, hoarding, lighting etc. is being charged at the NDS tariff, i.e. the category they fall in, thereby necessitating the application of the NDS tariff on the excess consumption. This is in compliance of HERC Tariff Order for FY 2010-11 and subsequent directives.

- Since the differential tariff for non-traction load was not accounted for in the earlier bills, a short billing of Rs. 46,43,661/- occurred, warranting legitimate recovery of the said amount from the Appellant.
22. Therefore, the Respondent's claim is entirely valid and justified, being in strict compliance with the governing tariff regulations and sales circulars issued by the Hon'ble Haryana Electricity Regulatory Commission (HERC).
23. Furthermore, there is no infirmity in the impugned order passed by the Ld. CGRF. The Appellant's contention that the Ld. CGRF misinterpreted the regulations and classified the DMRC load under the NDS tariff category is entirely misplaced and misleading. Contrary to the Appellant's assertions, the Ld. CGRF has undertaken a comprehensive examination of the factual matrix and, upon a correct interpretation of the relevant rules and regulations, has rightly directed the recovery of the short-assessed amount from the Appellant.
24. Therefore, in light of the foregoing submissions, the contentions of the Appellant and the grounds taken in the appeal are not maintainable in the eyes of law and the present appeal shall be dismissed forthwith.
- In view of the foregoing background, the para-wise response is being set out as hereunder-

**Para-Wise Response-**

1. The contents of para 1 are matters of record.
2. The contents of para 2 are wrong and denied. It is vehemently denied that the Ld. CGRF has wrongly categorized the auxiliary load of DMRC as Non-Domestic Load. It is submitted in response thereto that DMRC's non-traction load falls in the NDS category and accordingly, in compliance of HERC Tariff Order for FY 2010-11 and the subsequent rules and regulations, NDS tariff has to be charged by the Respondent licensee / DHBVN for the non-traction / auxiliary consumption of the Appellant. Hence, the contentions of the Appellant *qua* incorrect categorisation of load and applicable tariff is wholly misplaced, erroneous and incorrect.
3. The contents of Para 3 are matters of record.
4. The contents of Para 4 are matters of record.

5. The contents of Para 5, as stated, are wrong and denied. The inference sought to be drawn by the Appellant from the Tariff Order for FY 2010-11 is wrong and denied. It is submitted in response thereto that HERC Tariff Order for FY 2010-11 clearly specified that the power supplied to various commercial establishments, hoarding, lighting etc. shall be charged at the rates determined by the Commission for those purposes, i.e. the tariff category that they fall in. In this case, the non-traction load of DMRC, i.e. power utilised for hoardings, lighting and other non-railway purposes falls under the NDS category, and accordingly, NDS tariff is charged by the Respondent. The Appellant is grossly mis-projecting and misinterpreting the Tariff Order for FY 2010-11 by submitting that the auxiliary load of DMRC is to be billed on DMRC tariff. In view of the submissions made hereinabove, the contentions of the Appellant do not merit any consideration.
6. The contents of Para 6 are matters of record, however, the inference sought to be drawn by the Appellant from the Single Point Supply Regulations notified by HERC on 22.04.2020 is wrong and denied. It is submitted that the Appellant is deliberately misinterpreting the rules, regulations and Tariff Orders passed by the Hon'ble HERC, which categorically specify that the power supplied to DMRC for hoarding, lighting etc. shall be charged as per tariff category that they fall in, which is the NDS category. It is submitted that all applicable Tariff Orders, Rules and Regulations in this regard have to be read holistically, and the Appellant cannot read the Single Point Supply Regulations dated 22.04.2020 in isolation in order to give it an interpretation that suits their convenience and financial interests.
7. The contents of Para 7 are wrong and denied. It is denied that CGRF has misinterpreted the regulations and has put auxiliary load of DMRC in the NDS category. It is denied that the NDS tariff is applicable only to commercial establishments which are operating in DMRC premises. The Appellant has wrongly contended that regulations have been misinterpreted by CGRF. It is reiterated in response thereto that NDS tariff is not applicable solely to commercial establishments which are operating in DMRC premises, but also to other non-traction load of DMRC such as hoardings, lightings, etc. In compliance of Tariff Order for FY 2010-11 and applicable rules/ regulations, NDS tariff is charged for such non-traction



load. The submissions made in this regard in the Brief Background hereinabove shall be deemed to be reiterated herein by way of response to corresponding para.

8. The contents of Para 8 are matters of record. It is however denied that the short assessment of Rs. 1,33,99,732/- was raised for the period of July 2020 to May 2021. It is submitted in response thereto that the short billing of Rs. 1,33,99,732/- was assessed by the internal audit revenue department of DHBVN for the period July 2020 to September 2022. However, it is reiterated that since the tariff for DMRC was merged along with the NDS tariff w.e.f. 01.04.2021, the correct short assessment amount *qua* DMRC for the period July 2020 to April 2021, i.e. prior to the merging of tariff for FY 2021 - 2022, was worked out to Rs. 46,43,661/-. It is this amount that has to be rightly recovered from the Appellant as the said amount is the differential in the tariff for traction load and non-traction load.
9. The contents of para 9, as stated, are wrong and denied. It is reiterated that non-traction / auxiliary load is to be billed separately as per the tariff category they fall in. It is submitted that the non-traction load of DMRC (for hoardings, lightings, elevators, escalators and other non-railway purpose) was inadvertently not billed by the Respondent under the NDS category, i.e. the category they fall in. This inadvertent error in billing was rightly pointed out by the internal revenue department and accordingly, in consonance with the Tariff Order for FY 2010-11 and applicable rules/ regulations, the difference in tariff for traction and non-traction load for the period July 2020 to April 2021 was assessed and the demand for Rs. 46,43,661/- was raised by the Respondent. It is reiterated that the said demand is in line with the HERC Tariff Orders and applicable rules / regulations which specify that the non-traction load is to be billed as per the tariff category they fall in.
10. The contents of para 10 are matters of record.
11. The contents of paras 11-12, as stated are wrong and denied. It is vehemently denied that the distribution licensee has encroached upon the functions of the HERC by creating a new tariff category for DMRC and treating traction load as industrial load at 66 KV and auxiliary load as industrial load at 11 KV. It is denied that the Appellant has been

overcharged by Rs. 46,43,661/- in violation of tariff schedule fixed by HERC for FY 2020-2021. It is reiterated that the non-traction / auxiliary load has been charged NDS tariff in compliance with the prevailing rules, regulations and Tariff Orders passed by the HERC. The short assessment of Rs. 46,43,661/- has also been demanded on basis of the Tariff Order for FY 2010-11 and the subsequent orders, rules/ regulations notified by HERC categorically specifying that the power supply for non-traction load such as hoardings, lighting etc. is to be charged as per the tariff category they fall in. Hence, the demand for differential tariff amount raised by Respondent is in alignment and consonance of the relevant and applicable regulations and tariff orders. The Ld. CGRF has also rightly upheld that the recovery to be made from the Appellant in this regard. In view of the foregoing submissions, the contentions of the Appellant are rendered devoid of merit and ought to be dismissed.

12. The contents of para 13, as stated, are wrong and denied. The inference sought to be drawn from the legal precedent referred by the Appellant is wrong and denied. It is submitted that the judgement of Hon'ble APTEL in *Dilip Buildcon Limited & NHAI v. MERC & MSEDCL (Appeal No. 230 of 2024)* has been wrongly applied by the Appellant in the present case, as the present case is not where tariff or a separate class of consumers has been categorised by the Respondent. It is submitted that the Respondent, by virtue of charging NDS tariff on the non-traction load consumed by the Appellant, has acted in compliance of the Tariff Order for FY 2010-11 and the subsequent orders, rules & regulations which specify that the non-traction load is to be charged as per the tariff category they fall in. The short assessment raised by the Respondent is also in compliance of the directions of the Hon'ble HERC which casts an obligation on the Appellant to deposit the difference between DMRC Traction Tariff and NDS Tariff. Hence, the Appellant's reliance on the judgement of the Hon'ble APTEL in *Dilip Buildcon Limited & NHAI v. MERC & MSEDCL* is wholly misplaced, irrelevant and incorrect.

13. The contents of Para 14, as stated, are wrong and denied. The inference sought to be drawn by the Appellant from the Tariff Orders passed by different states is wholly misplaced. It is submitted that under the Electricity Act, 2003, each State Commission is empowered to make rules and regulations regarding the electricity sector within its state,

allowing them to govern aspects like tariff determination (amongst others). In view of such explicit power, the Hon'ble HERC also has notified certain rules, regulations and passed tariff orders which specify that the power supplied to DMRC for commercial establishments, hoarding, lighting etc. shall be charged as per the tariff category that they fall in, and further casts an obligation on DMRC to deposit the differential amount in Traction Tariff and NDS Tariff. It is pertinent to note here that both parties are bound by the directions of the Hon'ble HERC and in compliance thereof, the short assessment to the tune of Rs. 46,43,661/- has been raised by the Respondent after the inadvertent error in billing was pointed out by the internal revenue department. Accordingly, the Appellant also being bound by the directions and rules / regulations of HERC, is liable to deposit the short assessment amount as per the bill raised by DHBVN. Therefore, in the present case where Hon'ble HERC, being empowered under the Electricity Act to make rules and regulations for the state of Haryana, has passed the Tariff Orders and notified regulations as set out in the Brief Background hereinabove, the reference to different State Tariff Orders does not hold good. In view thereof, the contentions of the Appellant do not merit any consideration and are liable to be dismissed.

14. The contents of para 15 are wrong and denied. It is vehemently denied that the short assessment of Rs. 46,43,661/- is in clear violation of Tariff schedules, as determined by HERC and will attract Section 62 (6) of the Electricity Act, 2003. It is submitted that Section 62 (6) is not attracted in the present case as the Respondent has not recovered a charge which exceeds the tariff determined for DMRC. It is reiterated that NDS tariff has been charged by the Respondent as the non-traction load of the Appellant for hoardings, lighting, etc. falls under the NDS category. Therefore, in consonance / compliance with the Tariff Order for FY 2010-11 and the subsequent Rules/Regulations and Tariff Orders passed by the Hon'ble HERC, the non-traction load has been billed as per NDS category, i.e. the category they fall in, and the differential between the tariff for traction and non-traction load has been sought to be recovered by the Respondent. The submissions made in this regard in the Preliminary Submissions and Brief Background hereinabove shall be deemed to be reiterated herein by way of response.



### **Reply to Prayer Clause-**

The contents of Prayer Clause are wrong and denied. It is submitted that in view of the foregoing submissions, the appeal filed by the Appellant is rendered frivolous, untenable and therefore, the same is liable to be dismissed. The Appellant has failed to point out any infirmities in the order passed by the Ld. CGRF. Further, the Respondent has also justified the short assessment raised for the period July 2020 to April 2021. Therefore, there is no merit in the Appeal of the Appellant, and the same shall be dismissed with exemplary costs.

**E.** Hearing was held on 04.03.2025, as scheduled. Both the parties were present during the hearing through video conferencing. During the hearing, the counsel for the appellant submitted that reply has been received from the respondent and requested for 2 weeks time to file the rejoinder. The appellant is directed to submit rejoinder if any, with an advance copy to the respondent within 10 days. Acceding to the request of respondent, the matter is adjourned and shall now be heard on 18.03.2025.

**F.** The appellant vide email dated 11.03.2025 has submitted rejoinder, which is reproduced as under:

1. That, Delhi Metro Rail Corporation (DMRC) is a Railway as defined in section 2(31) of The Railways Act, 1989. The Hon'ble Delhi High Court in the matter of Delhi Metro Rail Corporation Ltd Vs Municipal corporation of Delhi vide its judgment dated 07.05.2008, has held that; DMRC is a Railway within the meaning of 2(31) of the Railways Act, 1989.

Para 8: The next question, which arises for consideration is whether the petitioner is in fact a "Railway", which is a pre-condition for Section 184 of the 1989 Act to apply and, therefore, can be regarded as "Railway" within the expression "railway administration". The word "Railway" has been defined in Section 2 (31) of the 1989 Act in the following words:

2(31) "railway" means a railway, or any portion of a railway, for the public carriage of passengers or goods, and includes-

- (a) all lands within the fences or other boundary marks indicating the limits of the land appurtenant to a railway;

(b) all lines of rails, sidings, or yards, or branches used for the purposes of, or in connection with, a railway;

(c) all electric traction equipments, power supply and distribution installations used for the purposes of, or in connection with, a railway;

(d) all rolling stock, stations, officers, warehouses, wharves, workshops, manufactories, fixed plant and machinery, roads and streets, running rooms, rest houses, institutes, hospitals, water works and water supply installations, staff dwellings and any other works constructed for the purpose of, or in connection with, railway;

(e) all vehicles which are used on any road for the purposes of traffic or a railway and owned, hired or worked by a railway; and

(f) all ferries, ships, boats and rafts which are used on any canal, river, lake or other navigable inland waters for the purposes of the traffic of a railway and owned, hired or worked by a railway administration, but does not include-

(i) a tramway wholly within a municipal area; and

(ii) lines of rails built in any exhibition ground, fair, park, or any other place solely for the purpose of recreation;

Para 9: The word Railway as per the above definition means Railway or any portion thereof, but the same should be used for public carriage of passengers, goods and includes various properties as specified in Clauses (a) to (f) therein. The term "Railway", in the first part of the definition clause relies upon the word "Railway" as is understood in normal parlance, with a stipulation that it should be used for the purpose of transportation of public carriage of passengers or goods. The Supreme Court in the case of Shahadara (Delhi) Saharanpur Light Railway Company v. Municipal Board, had agreed with the contention of the appellant therein that the expression "Railway" as is commonly understood means carriage of passengers and goods on iron rails. The term "Railway" as described in Article 366 (20) does not include tramway wholly within the municipal area, line of communication wholly situated in one State and declared by the Parliament by law not to be Railway. The petitioner qualifies and is a Railway within the meaning of Section 2(31) of the 1989 Act. It is engaged in transportation of passengers on rails. It

is a public carriage. This factual position is not challenged by the respondent.

2. That, on receiving the proposal from the respondent, DHBVNL to create a separate tariff category “DMRC” to supply electricity to Metro Rail and Metro Stations { Para-8 Page -36 of the Appeal}, the Hon’ble HERC in its Tariff Order for the Financial Year 2010-11 had designed the DMRC Tariff under section 62(3) of the Electricity Act, 2003, keeping in view the complexity and intermixing of connected loads of the traction supply and the auxiliary loads such as stations, train control, signalling, telecommunication, passenger information display, public address system, ticketing, air-conditioning for technical equipment rooms, passenger amenities and Safety services etc. at the stations. As the supply to the DMRC Loads as mentioned above were given at a single point at 66 kV/ 132 kV, both the Traction and Auxiliary Load of DMRC were put under DMRC Tariff category. As DMRC had leased out spaces to commercial consumer for optimal utilization of resources and the additional revenue earned to keep the passenger tariff at a minimum, the Commission had prescribed for tariff of these commercial consumer at relevant category that they fall {Para no-4, Page No-3 of the Appeal}.

Metro Rail throughout India such as Chennai Metro Rail Corporation (CMRL), Kochi Metro Rail Corporation Ltd (KMRL) and Mumbai Metro Rail Corporation Limited are being billed on a single tariff basis for both of their Traction and Auxiliary Loads {Para-14, Page 7 & 8 of the Appeal}.

3. That, the Commission vide the Haryana Electricity Regulatory Commission (Single Point Supply to Employers’ Colonies, Group Housing Societies and Residential or Residential cum Commercial/ Commercial Complexes of Developers and Industrial Estates/ IT parks/SEZ) Regulations, 2020 has prescribed for single point supply to DMRC for its Traction Load, Auxiliary Load and the Commercial consumers to whom DMRC has leased out spaces.

HERC has prescribed that, such commercial load has to be billed at NDS Tariff {Para No-6, Page No-4 of the Appeal}.

4. That, the Connected Load of DMRC can be broadly categorized as
  - a) Traction Load,
  - b) Auxiliary Load and



c) Commercial Load of leased out spaces.

The load falling under the category a) and b) has been put by HERC under DMRC Tariff Category in the tariff order 2010-11. The load falling under category c) has been put under NDS tariff category.

The same method of billing has been prescribed for in the HERC (Single Point Supply to Employers' Colonies, Group Housing Societies and Residential or Residential cum Commercial/ Commercial Complexes of Developers and Industrial Estates/ IT parks/SEZ) Regulations, 2020 { Para No-6, Page No-4 of the Appeal} .

5. That, the CGRF has misinterpreted the regulation and has put the auxiliary loads of DMRC in the NDS tariff category. The NDS tariff is applicable only to the commercial establishments which are operating in the DMRC premises on the space leased out to them.
6. That, the respondent DHBVNL has raised the short assessment of Rs 46, 43,661/- on the basis of a letter dated 04.02.2015 by DMRC in which, the appellant had asked for an interim load of 1.5 MVA against the total sanctioned contract demand of 7.78 MVA, as the load requirement in the initial phase was very low. The respondent, on its own has bifurcated the Traction and Auxiliary Load as 1280 KVA and 6500 KVA respectively. DMRC has never given any bifurcation of Traction & its Auxiliary load to the respondent DHBVNL. The assessment done by the respondent DHBVN is without any basis and liable to be dismissed.
7. That, if the logic of the respondent DHBVNL, that the auxiliary load of DMRC will not fall under DMRC tariff category, then it will also not fall under NDS Tariff Category. Delhi Metro Rail being a Railway as defined under section 2(31) of the Railways Act, 1989, it will fall under Bulk Supply Category as Railways other than Traction qualifies for Bulk Supply tariff category.
8. That, in the Tariff Order for the FY 2010-11, HERC has provided for availability of supply to Bulk Supply Consumers as follows
  - (i) Availability  
Available for general or mixed load exceeding 10 kW for the following establishments; whether further distribution is involved or not:
    - i) M.E.S and other Military Establishments,
    - ii) Railways, other than traction.

- iii) Central P.W.D,
  - iv) Hospitals,
  - v) Schools/Colleges/Educational Institutions and other institutions
  - vi) Other similar Establishments.
9. That, in the event, the Non Traction load of DMRC is treated differently in contravention to the tariff order designed by hon'ble HERC, the same would definitely fall under Bulk Supply Category. The relevant tariff category will be Bulk Supply at 66 kV.
10. That, the 66 kV connection of DMRC was energised in August 2015. If the Non-Traction Load of DMRC is billed under Bulk Supply tariff category, an amount of Rs 3, 02, 14,111 (Rupees Three Crores Two Lacs Fourteen Thousand One Hundred and Eleven only) has been overcharged by DHBVNL.
11. That, the overcharging by DHBVNL will attract section 62(6) of the Electricity Act,2003, which reproduced below;  
"If a licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee."

**Rejoinder Para-wise:**

1. Para 1 being a matter of record, requires no rejoinder.
2. As rejoinder to Para 2, it is stated that, the respondent DHBVNL has raised the short assessment of Rs 46, 43,661/- in contravention to section 62(3) and 62(6) of the Electricity Act,2003, thereby overcharged the Appellant and the same be set aside.
3. As rejoinder to Para 3, it is stated that, the Hon'ble CGRF has misinterpreted the tariff applicable to DMRC as mentioned in the tariff order and the regulation and has put the auxiliary loads of DMRC in the NDS tariff category. The NDS tariff is applicable only to the commercial establishments which are operating in the DMRC premises on the space leased out to them. Hence the Short assessment by DHBVN needs to be set aside.
4. As rejoinder to Para 4, it is stated that, the respondent DHBVNL has wrongly categorized the Auxiliary Load of DMRC in Non-Domestic

Category. The Appellant has created its own Tariff Schedule and has encroached upon the function of the State Commission which has been provided to it under section 62 of the Electricity Act 2003. The Tariff Schedule approved by the Commission for the FY 2020-21. It is noteworthy to mention that,

- There is no NDS Tariff of Rs 6.65/ kVAh
- The NDS tariff has been determined by the Commission for consumers above 50 KW on HT. ( up to 33kV)
- The appellant being supplied electricity at 66 kV Level, is an EHT Consumer and no tariff has been determined by the Commission.

5. Para 5 being a matter of record, requires no rejoinder.

6. As rejoinder to Para 6, it is stated that, the appellant vide letter dated 04.02.2015 had asked for an interim load of 1.5 MVA against the total sanctioned contract demand of 7.78 MVA, as the load requirement in the initial phase was very low. The required load was for testing purpose for eight stations which includes both the load of metro trains and stations as well as loads which are required for metro train operation such as fire fighting, signalling, pumps, lifts escalators etc.

The respondent DHBVNL, on its own has bifurcated the Traction and Auxiliary Load as 1280 KVA and 6500 KVA respectively. The assessment done by the respondent DHBVN is without any basis and liable to be dismissed.

7. As rejoinder to Para 7, it is stated that, the respondent DHBVNL has misinterpreted the Commission's view as mentioned in the tariff order. The Commercial establishment as referred to in the tariff order only means the Commercial establishments to whom DMRC has leased out spaces to earn additional revenue to compensate the passenger tariff.

8. Para 8 being a matter of record, requires no rejoinder.

9. Para 9 being a matter of record, requires no rejoinder.

10. Para 10 being a matter of record, requires no rejoinder.

11. As rejoinder to Para 11, it is submitted that, the responded has misrepresented the facts and the Commission's view. The Appellant is regularly paying to the respondent DHBVNL the difference in tariff between DMRC and NDS on the electricity consumed by various commercial establishment to whom spaces have been leased out.



In the Tariff order 2019-20, DMRC has prayed for (Para 2.3.5 Page No92-96)

- (i) To allow/regularise DMRC for carrying out metering, billing & charging of its commercial consumers within the premises of the DMRC for electricity consumption at the rates prescribed by this Hon'ble commission in Tariff Order in the line with Delhi Electricity Regulatory Commission (DERC) for Delhi Metro Rail Corporation (DMRC).
- (ii) To allow DMRC to retain the rebate of 9% for supply on 66 KV and 10 % for supply on 132 kV on account of the transformation of energy & line losses etc.in the line with Delhi Electricity Regulatory Commission (DERC) for Delhi Metro Rail Corporation (DMRC).
- (iii) To allow to deposit the calculated differential amount to DISCOMs in the line with Delhi Electricity Regulatory Commission (DERC) for Delhi Metro Rail Corporation (DMRC).
- (iv) To exempt DMRC from payment of any charges or Surcharges for open access on account of agreement executed between Govt. Of Haryana and DMRC dated 17.11.2006.
- (v) Any such other order(s) be passed, in the interest of justice, as this Hon'ble Court deems fit under the facts and circumstances of the case.

**Objection by DHBVNL( Page no- 96 to 100) :** Nigam submits that the Hon'ble Commission while determining tariff for DMRC in its Tariff Order dated 13.09.2010 for FY 2010-11, gave specific directions that all other terms and conditions applicable to Railway (Traction) are applicable to DMRC, same is reproduced here, as under:

“All other terms and conditions applicable to Railway (Traction) shall be applicable to DMRC as well.”

In regard to the prayer for allowing DMRC to submit the calculated differential amount to DISCOM, it is submitted that DMRC cannot intermix two categories and thereby provide differential amount.

As explained above DMRC station (excluding traction) is a commercial establishment and similar tariff is applicable for

commercial consumers of DMRC, requirement of differential payment mechanism does not arise.

**Commission's View:** The Commission has perused the submissions of DMRC as well as the issue wise reply filed by the Nigam. Given the peculiar and commercially win-win situation for both DHBVNL and DMRC, the Commission considers it appropriate to relax anything to the contrary contained in the Single Point Supply Regulations and directs that DMRC shall carry out metering, billing and revenue collection for the commercial consumers within its premises subject to installation of correct meters as per CEA norms duly tested and jointly sealed with Discoms. The difference between DMRC (Traction) Tariff and NDS Tariff as determined by the Commission shall be credited by the DMRC into the accounts of the Discom concerned as per the billing cycle.

The respondent DHBVNL has misinterpreted "All other terms and conditions applicable to Railway (Traction) shall be applicable to DMRC as well."

The other terms and conditions includes;

- a) Regulation 6.9.1 of HERC Supply Code, 2014 (Billing in case of defective/sticky/dead stop/burnt meter)

For both Railways Traction & DMRC: Demand Factor is 80%

No of working days: 20, No of days per month: 30

- b) Regulation 9.3.6 of HERC Supply Code, 2014: For exceeding the sanctioned contract demand, penalty @ Rs 125/kVA or part thereof per month is levied to both Railway Traction & DMRC.

In the tariff Schedule for the FY 2020-21, the Word "DMRC" has been specifically mentioned by the Hon'ble Commission.

If the logic of the respondent DHBVNL that the auxiliary load of DMRC will not fall under DMRC tariff category, as the other terms and conditions of Railway Traction are applicable to it, then it will also not fall under NDS Tariff Category. Delhi Metro Rail being a Railway as defined under section 2(31) of the Railways Act, 1989, it will fall under Bulk Supply Category.

Therefore, an amount of Rs 3, 02, 14,111 (Rupees Three Crores Two Lacs Fourteen Thousand One Hundred and Eleven only) has been overcharged by DHBVNL.

12. As rejoinder to Para 12, it is submitted that, the appellant DMRC is regularly paying the difference between DMRC and NDS Tariff on the consumption of commercial establishments operating on spaces leased out to them by DMRC.
13. Para 13 being a matter of record, requires no rejoinder.
14. Para 14 being a matter of record, requires no rejoinder.
15. Para 15 being a matter of record, requires no rejoinder.
16. As rejoinder to Para 16, it is submitted that, the Hon'ble Commission in its tariff schedule since 2010, has mentioned the tariff "DMRC", which is separate and distinct from "Railway Traction". The word DMRC represents both Traction as well as Auxiliary load of DMRC. The word Traction is not suffixed to it.
17. As rejoinder to Para 17, it is submitted that, the respondent DHBVNL has misinterpreted the Tariff Order and the short assessment of Rs 1,33,99,732/- was without any basis and protested by the appellant.
18. As rejoinder to Para 18, it is submitted that, the short assessment of Rs 46, 43,661/- is in contravention to the tariff orders of DMRC and has been objected by DMRC.
19. Same as Para 18.
20. 20. Para 20 being a matter of record, requires no rejoinder.
21. As rejoinder to Para 21, it is submitted that, the respondent DHBVNL has misinterpreted the tariff orders issued by the Commission and has made a short assessment treating the Auxiliary load of DMRC at NDS tariff.
22. As rejoinder to Para 22, it is submitted that, the respondent DHBVNL has overcharged the appellant by Rs 46, 43,661/- which attracts section 62(6) of the Electricity Act, 2003.
23. As rejoinder to Para 23, it is submitted that, the CGRF has misinterpreted the regulation and has put the auxiliary loads of DMRC in the NDS tariff category. The NDS tariff is applicable only to the commercial establishments which are operating in the DMRC premises on the space leased out to them. Therefore the impugned order of CGRF dated 18.12.2024 is liable to be set aside.



24. As rejoinder to Para 24, it is submitted that, appeal of the appellant is in line with the HERC Tariff Schedule as determined by the Commission from time to time and deserves to be allowed.

For the reasons aforementioned, the appeal deserves to be allowed and the overcharged amount already recovered by the respondent DHBVNI. be refunded to DMRC.

- G.** Hearing was held on 18.03.2025, as scheduled. Both the parties were present during the hearing through video conferencing. During the hearing, the counsel for the Respondent submitted that rejoinder has been received from the Appellant and requested for 10 days time to file the reply regarding the rejoinder submitted by the Appellant. The Respondent Counsel is directed to submit reply, if any, with an advance copy to the Appellant within 10 days.

Acceding to the request of respondent, the matter is adjourned and shall now be heard on 15.04.2025.

- H.** Hearing was held on 15.04.2025, as scheduled. Both the parties were present. During the hearing, the counsel for the respondent requested to adjourn the matter due to arguing counsel had to undergo a sudden minor leg surgery. Appellant counsel intimated that no reply has been received from the respondent on the rejoinder of DMRC. Further, respondent counsel is directed to submit his reply on the rejoinder submitted by the appellant within one week. Appellant counsel directed to provide the auxiliary load data for which respondent has charged on commercial basis before the next date of hearing. A copy of the same be sent to respondent for comments.

Accordingly, the matter is adjourned and shall now be heard on 28.04.2025.

- I.** The appellant vide email dated 27.04.2025 has submitted reply in compliance of Interim order dated 15.04.2024, which is reproduced as under:

1. That, Delhi Metro Rail Corporation (DMRC) had applied for a new connection along with duly filled agreement form on 17.05.2013. It has been clearly mentioned at Sr.No-12 of the form that the Category of supply is "DMRC for Traction and Auxiliary Supply". The Contract demand has been mentioned at Sr No. 15 as 7780 kVA. It is being billed under DMRC Tariff Category since the date energization as per HERC Tariff orders from time to time.

2. That, in the details of calculation of load, at page number 16 of the Form, it has been mentioned as below; i) Traction Transformer at 66/27.5 kV single Phase 40/50 MVA, 2 Nos (One standby) ii) Auxiliary Transformer at 66/33 kV Three Phase 30/40 MVA 2 Nos (One Standby).
3. That, the required load of 7780 kVA was for eight stations which includes both the load of metro trains and stations as well as loads which are required for metro train operation such as fire fighting, signalling, pumps, lifts escalators etc.
4. That, the Hon'ble HERC in its Tariff Order for the Financial Year 2010- 11 had designed the DMRC Tariff under section 62(3) of the Electricity Act, 2003, keeping in view the complexity and intermixing of connected loads of the traction supply and the auxiliary loads such as stations, train control, signalling, telecommunication, passenger information display, public address system, ticketing, air-conditioning for technical equipment rooms, passenger amenities and Safety services etc. at the stations. As the supply to the DMRC Loads as mentioned above were given at a single point at 66 kV/ 132 kV, both the Traction and Auxiliary Load of DMRC were put under DMRC Tariff category. As DMRC had leased out spaces to commercial consumer for optimal utilization of resources and the additional revenue earned to keep the passenger tariff at a minimum, the Commission had prescribed for tariff of these commercial consumer at relevant category that they fall {Para no-4, Page No-3 of the Appeal}.
5. Auxiliary Load on which NDS Tariff has been applied by DHBVN:  
That, In the impugned short assessment dated 20-01-2022, DHBVN has bifurcated on its own, the DMRC Contract Demand of 7780 kVA into i) 1280 kVA: Traction Load ii) 6500 kVA: Auxiliary Load. {Page No-72, Annexure- R-10 of DHBVN Reply}.
6. Impugned Assessment: The disputed assessment is for the period 01-04-2020 to 01-05-2021. (HERC Tariff Order for the FY 2020-21).
  - a) Traction Load at 66 kV has been billed at Industrial Tariff at 66 kV and
  - b) Auxiliary Load at 66 kV has been billed at NDS Tariff at 11 kV.
7. That, the charging of Traction load at Industrial Tariff and Auxiliary Load at NDS Tariff is a violation of HERC Tariff Schedule for the FY 2020-21.

8. That, DMRC is paying the difference of DMRC Tariff and NDS tariff for the Leased out spaces to Commercial Consumers.
  9. Metro Rail throughout India such as Chennai Metro Rail Corporation (CMRL), Kochi Metro Rail Corporation Ltd (KMRL) and Mumbai Metro Rail Corporation Limited are being billed on a single tariff basis for both of their Traction and Auxiliary Loads {Para-14, Page 7 & 8 of the Appeal}.
- For the reasons aforementioned, the appeal deserves to be allowed and the overcharged amount already recovered by the respondent DHBVNL be refunded to DMRC.

**J.** Hearing was held on 28.04.2025, as scheduled. Reply of the appellant in response to interim order dated 15.04.2025 was received by email dated 27.04.2025. Both the parties were present. During the hearing, the appellant response concerning the details of auxiliary load data for which respondent has charged non-domestic tariff was discussed in detail. The Appellant's counsel further requested clarification regarding Annexure R-10 (Page No. 72 of respondent reply) specifically, method adopted by respondent for bifurcating DMRC total contract demand of 7780 kVA into 1280 kVA for traction load and 6500 kVA as auxiliary load, and how tariff was applied in the calculation of the assessment. Accordingly, the Respondent's counsel was directed to submit a detailed written submission on the matter within 10 days. Simultaneously, the Appellant's counsel was directed to provide further information clearly identifying which portion of DMRC load has been categorized under the non-domestic tariff instead of the applicable DMRC tariff.

Accordingly, the matter is adjourned and shall now be heard on 16.05.2025.

**K.** Counsel for respondent (DHBVN) has submitted written note of argument which is reproduced as under:-

**A. Relief Sought-**

Setting aside of the order dated 18.12.2024 passed by the Corporate Consumer Grievances Redressal Forum (CGRF) and directions to the Respondent to withdraw the Short Assessment Bill amounting to Rs. 46.43,661/-for the period July, 2020 to May, 2021.



## **B. Arguments on behalf of the Respondent -**

### **1. Load of DMRC divided into 3 categories –**

The total contract demand of Delhi Metro Rail Corporation Ltd. is 7.78 MVA for its Faridabad Receiving Sub-station. The Respondent released connection to DMRC under 'Railway Traction & DMRC Category at 66 KV voltage level. The total load is being utilised by DNMRC in three heads -

- a) Traction Load-Electricity used for running of metro on tracks:
- b) Auxiliary Load Electricity used for Auxiliaries such as lighting, hoardings, lifts, escalators etc. other than commercial shops within the metro substation.
- c) Commercial Load Electricity used for commercial shops within the metro substation, which is metered separately and billed individually by DMRC..

### **2. Traction and Auxiliary Load of DMRC divided as per DMRC letter dated 04.02.2015-**

Appellant/ DMRC, vide their letter dated 04.02.2015 addressed to Executive Engineer, DHBVN (Annexure R-1), conveyed that the traction load per station for eight stations was 160 KVA each, amounting to a total traction load of 1280 KVA. Consequently, based on the DMRC's own submissions, its total sanctioned load of 7780 KVA was broadly categorized into two categories: i) Traction Load 1280 KVA, which pertains exclusively to railway operations, including the movement of metro trains; and ii) Non-Traction Load-6500 KVA (i.e., the total sanctioned load of 7780 KVA minus the traction load of 1280 KVA), which includes energy consumption for ancillary infrastructure such as administrative buildings, street lighting, and other non-railway purposes.

### **3. 2010 Tariff Order of HERC provided a separate tariff for traction load of DMRC alone-**

HERC vide order dated 13.09.2010 in HERC PRO No. 3 of 2010 & HERC PRO No. 4 of 2010 (Annexure R-2) on Aggregate Revenue Requirement of UHBVNL & DHBVNL for their distribution and retail supply businesses for FY 2010-11 & Distribution and Retail Supply Tariff (Tariff Order for FY 2010-11), had fixed two part tariff for supply of electricity connection to DMRC in line with Cost of Supply as estimated in FY 2010-11 as follows-

Fixed Charge- Rs. 125/KVA per month

Energy Charge-395 paisa at 66 KV and 380 paisa at 132 KV

It was further specifically stated in the Order that the power supplied to various commercial establishments, hoarding, lighting etc. shall be charged at the rates determined by the Commission for those purposes, i.e. the tariff category that they fall in (internal page 140 of the Order). The said tariff was also circulated through Sales Circular No. D- 7/2010 dated 01.10.2010 (Annexure R-3).

**4. 2020 Tariff Order of HERC clarifies that special connection to DMRC under separate category is for traction purpose only-**

HERC vide order dated 01.06.2020 in HERC PRO 59 of 2019 and PRO 60 of 2019 (Annexure R-6) on True-Up for FY 2018-19, Annual (Mid-year) Performance Review for the FY 2019-20, Aggregate Revenue Requirement of UHBVNL & DHBVNL for the MYT Control Period 2020-2021 to FY 2024-2025 and Distribution & Retail supply tariff for the FY 2020-2021, considered various objections filed by the DMRC as regards determination of special tariff in respect of Delhi Metro Rail Corporation Ltd and inclusion of directions regarding differential payment to DHBVNL & UHBVNL. In response to the objections of the DMRC, DHBVN filed its submissions wherein it was categorically stated that Nigam has provided special connections to DMRC for traction purpose only and electricity consumption against operations of DMRC Stations (excluding traction) does not fall under the said category. A perusal of the foregoing makes it abundantly clear that DMRC was obligated to deposit the difference between traction and non-traction tariff as per the proportionate load consumption for commercial establishments, lightings, hoarding, etc. as per the prevalent tariff order, rules and regulations.

For FY 2020-2021, the tariff category for DMRC in tariff schedule approved by HERC (w.e.f. 01.04.2021) & as per sales circular D14/2020 DHBVN was as follows-

Fixed Charge- Rs. 160/ KVA per month

Energy Charge-625 paisa / KVAh at 66 Kv or 132 KV

**5. Tariff of DMRC merged and single point tariff determined vide order dated 30.03.2021-**

HERC, vide order dated 30.03.2021 in HERC/PRO-77 of 2020 & HERC/PRO 78 of 2020 (Annexure R-7), observed that the electricity supply to the Railways for

traction has different tariff for voltage levels ranging from 11 kV to 220 kV, and that there is a difference of 10 Paisa/Unit in traction supply vis-à-vis HT Supply up to the voltage level of 66/132 kV and demand charges are lower by Rs. 10/kVA per month as compared to the IIT Supply. Hence, the Commission considered it appropriate to merge the Railway Traction Supply/DMRC with the HT supply at the relevant voltage level. The tariff schedule was revised as follows-

Tariff for FY 2020-2021 (w.e.f. 01.06.2020)			Tariff for FY 2021-22 (w.e.f. 01.04.2021)	
Category of consumer	Energy Charges (Paisa/kWh or/kVAh)	Fixed Charge (Rs. per kW per month of the connected load/per kVA of sanctioned contract demand)	Energy Charges (Paisa/kWh or/kVAh)	Fixed Charge (Rs. per kW per month of the connected load/per kVA of sanctioned contract demand)
DMRC-Supply at 66 kV or 132 KV	625/kVAh	160/kVA	Merged with HT Supply Tariff	

The foregoing tariff was also circulated vide Sales Circular NoD-12/2021 dated M30.04.2021 (Annexure R-8).

**6. Till the time of passing of order dated 30.03.2021, it was clear that separate billing has to be made for non-traction load including commercial and Auxiliary load-**

In March 2023, the Internal Revenue Department of the Respondent conducted an internal audit, which identified inadvertent discrepancies in DMRC's billing. As a result, a Half Margin Memo (Book No. 2022/61/002 dated 17.03.2023) (Annexure R-9) was rightly issued, directing that an amount of Rs. 1,33,99,732/- be recovered from DMRC in accordance with Sales Circular No. D-17/2020, after due verification of records, Pursuant to the internal audit and further verification carried out, it was observed that for the period July 2020 to April 2021, the differential tariff between traction and non-traction load was not duly accounted for in the bills raised by the Respondent, resulting in an under-billing and consequent short assessment of Rs. 46,43,661/-

Thus, the correct short assessment amount qua DMRC for the period July 2020 to April 2021, i.e. prior to the merging of tariff for FY 2021-2022, was worked out to Rs. 46,43,661/-



Accordingly, the Respondent vide letter dated 20.01.2024/- (Annexure R-11) to DMRC, raised a demand for Rs. 46,43,661/-, categorically intimating that the amount charged is the difference in the tariff for traction load and non-traction load. Thereafter, Respondent raised the revised bill on 11.05.2024'. It is submitted that nowhere in the appeal, the correctness of actual usage of electricity units as reflected in the revised bill has been challenged by the Appellant.

**7. Appellant has wrongly disregarded the justification and rationale behind the short assessment and has erroneously challenged the bill of Rs. 46,43,661/-**

DMRC's non-traction load consumption i.e. various commercial establishment, hoarding, lighting etc. is being charged at the NDS tariff, i.e. the category they fall in, thereby necessitating the application of the NDS tariff on the excess consumption. This is in compliance of HERC Tariff Order for FY 2010-11 and subsequent directives.

**8. Incorrect contention of DMRC seeking classification as "Railway" for applicability of 'Bulk Supply' tariff category -**

DMRC has wrongly contended applicability of Bulk Supply tariff category on the pretext that it qualifies as "Railways, other than traction" under Point 7 of the Tariff Schedule (Annexure A-1 of the Rejoinder). This assumption is fundamentally flawed both in fact and in law, as submitted hereunder -

- i. It is crucial to note that DMRC is a Metro Railway entity, governed by a separate and self-contained legislation the Metro Railways (Operation and Maintenance) Act, 2002 ("2002 Act"). It is a joint venture company registered under the Companies Act and not a statutory arm of Indian Railways. Its operations, administration, and infrastructure are governed by the 2002 Act and the Metro Railways (Construction of Works) Act, 1978, not by the Railways Act, 1989. Accordingly, DMRC is not covered under the general definition of "railways" as contemplated for the purposes of the 1989 Act or under the expression "Railways, other than traction" as used in the electricity tariff framework.
- ii. Reliance placed by the Appellant on the judgment of the Hon'ble Delhi High Court in Delhi Metro Rail Corporation Ltd. v. Municipal Corporation of Delhi, 2008 SCC OnLine Del 600, is fundamentally misplaced, as the reasoning therein, when read correctly, does not support the Appellant's

claim for classification under the "Railways other than traction" category. On the contrary, the judgment underscores that the classification of DMRC as a "railway" under Section 2(31) of the Railways Act, 1989 was accepted only in the limited context of taxation under the Delhi Municipal Corporation Act, 1957, and specifically due to the lack of any contest by the respondent therein. The Hon'ble Court did not adjudicate upon the definitional boundaries of "railway" through a detailed statutory or functional analysis, but rather proceeded on an uncontested assumption. As such, no authoritative proposition was laid down declaring DMRC to be a railway for all statutory purposes.

- iii. The term "railways" as appearing under Clause 7 of the tariff schedule (Annexure A-1 of the Rejoinder) must be interpreted contextually, in harmony with the Electricity Act, 2003, and the regulatory framework governing consumer classification. While Clause 7 does not make reference of any particular legislation, the term "railways" cannot be read expansively to cover all forms of rail-guided transport, particularly those governed by specialized legislative schemes.
- iv. Delhi Metro Rail Corporation (DMRC) is constituted under the Metro Railways (Operation and Maintenance) Act, 2002, which is a self-contained and special legislation enacted to regulate urban mass rapid transit systems. Section 2(i) of the 2002 Act defines "metro railway" to mean a rail-guided system designed for passenger transport in metropolitan areas, with its own operational and regulatory framework. Crucially, DMRC is not administered by the Railway Board or the Ministry of Railways. Instead, it operates as a government company under the Companies Act, functioning autonomously under the framework of the Metro Act.
- V. The Statement of Objects and Reasons of the 2002 Act further reinforces this distinction, noting that the legislation was enacted to address the unique operational, safety, and administrative needs of metro systems, which differ fundamentally from those of Indian Railways. It is therefore, submitted that the provisions of the Metro Railways (Operation and Maintenance) Act, 2002, shall govern DMRC exclusively and not the Railway Act of 1989, or any other legislation related to Indian Railways.

- vi. Further, the Haryana Electricity Regulatory Commission (HERC), which is the statutory body responsible for regulating electricity tariffs in the region, vide its Tariff Order dated 13 September 2010 (Annexure R-2), has affirmed this distinction by creating a specific tariff category for DMRC. The order states that "all other terms and conditions applicable to railways (traction) shall be applicable to DMRC as well," but it does not extend these terms to non-traction items like auxiliary loads. This intentional exclusion reflects the Commission's intent to treat DMRC separately from Indian Railways under the electricity tariff regime, recognizing its distinct legal and operational framework.
- vii. The contention of DMRC to the effect that Non-Traction of DMRC shall be billed under Buol Supply Tariff category
- viii. The term "railways" in Clause 7 must be interpreted in its proper statutory context, consistent with the principles laid down by the Hon'ble Supreme Court in Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta, 2021 SCC OnLine SC 194. The Court observed: "When the question arises as to the meaning of a certain provision in a statute, it is not only legitimate but proper to read that provision in its context. The context here means, the statute as a whole, the previous state of the law, other statutes in pari materia, the general scope of the statute and the mischief that it was intended to remedy." "Textually similar language in different enactments has to be construed in the context and scheme of the statute in which the words appear. The meaning and content attributed to statutory language in one enactment cannot in all circumstances be transplanted into a distinct, if not, alien soil"

Applying the principle of purposive interpretation and legislative specificity. DMRC's auxiliary load cannot be subsumed under the bulk supply tariff category for "railways other than traction." The absence of express inclusion, coupled with the object and scheme of the 2002 Act, mandates that DMRC be classified independently for tariff purposes, as has been the consistent practice under HERC's regulatory framework.

13. The inference sought to be drawn from the legal precedent referred by the Appellant is wrong and denied. It is submitted that the judgement of Hon'ble APTEL in Dilip Buildcon Limited & NHAI v. MERC & MSEDCL (Appeal No. 230 of 2024) has been wrongly applied by the Appellant in the



present case. The case Dilip Buildcon Limited & NHAI v. MERC & MSEDCL concerns a dispute over the classification of toll collection plazas and their associated lighting on national highways, specifically regarding whether they should be classified as non-residential/commercial (LT-II) or street lights (LT-VI) for tariff purposes. Hon'ble APTEL in this case considered that LT-VI Street Light category is applicable, among others, for lighting in public streets/ thoroughfares which are open to the general public. An exception to this category was streetlights in residential complexes, commercial complexes, industrial premises etc. to which the tariff applicable to L.T.VI category is not applicable. It was held that it is only street lighting provided in and around the toll plaza which would fall within LT-II category, and that street lighting on other parts of the National Highway including at village/ town intersections, road over bridges etc, where no commercial activities are carried on, would only fall within LT-VI category. In the instant case, however, the auxiliary load is the load used for various activities such as lightening, display of hoarding, lifts and escalators, which cannot be said to be connected to traction load, which is solely required for running of metro trains. In view thereof, the said load has to be billed at the tariff specified for such purpose in the tariff order i.e. HT tariff.

14. By virtue of charging NDS tariff on the non-traction load consumed by the Appellant, Respondent has acted in compliance of the Tariff Order for FY 2010-11 and the subsequent orders, rules & regulations which specify that the non-traction load is to be charged as per the tariff category they fall in. The short assessment raised by the Respondent is also in compliance of the directions of the Hon'ble HERC.

**L.** Appellant has submitted written argument on 10.06.2025, which is reproduced as under:-

1. That, in the Tariff Order for the FY 2010-11, the Hon'ble Haryana Electricity Regulatory Commission created a new tariff category "DMRC" for the mixed load of Traction and Auxiliary Load (Metro Stations, Signalling, Tunnel lighting etc.) (Para-8 Page No-36 of the Appeal).
2. That, the Commercial Consumers operating from the spaces Leased out by DMRC are to be billed under relevant Tariff category i.c. NDS. (Para no-4, Page No-3 of the Appeal) and (Para No-6, Page No-4 of the Appeal)

3. That, the Commission has devised two tariff categories for Railways.

i) Railways Traction for Traction Load and

ii) Bulk Supply for Railways other than Traction.

Traction and Non-Traction Loads of Railways are being metered at different voltage level and being billed separately under Traction and Bulk Supply Tariff.

4. That, DMRC is being supplied electricity through metering at 66 kV level for the mixed load of Traction and its Auxiliary Load like Stations etc. Hence being billed with distinct tariff category "DMRC" as categorized by the Commission under section 62(3) of the Electricity Act, 2003.

5. That, the Respondent DHBVN has carried out assessment of Rs 46,43,661/- for the period July 2020 to May-2021, by bifurcating on its own the loads of DMRC. The DMRC letter 04.02.2015 was a request for interim for testing to be carried out DMRC (Para-6, Page No-8 of the DMRC Rejoinder dated 10.03.2015).

6. That, in its Reply dated 28.02.2025 to the Appeal, the Respondent has relied on its submission before HERC (Page No-50) that the Auxiliary Loads of DMRC, like Stations are Commercial in nature.

7. That, the Respondent. DHBVN has heavily relied on the following;  
"All other terms and conditions applicable to Railway (Traction) shall be applicable to DMRC as well."

(Page No-50, DHBVN Reply dated 28-02-2025)

8. That, the submission of the Respondent that, the Stations of Railways are being billed under NDS category and hence the same should be applied to Metro Stations is contrary to the Tariff as designed by the Hon'ble Commission.

9. That, the Railway Stations are being billed correctly under Bulk Supply Category. Copy of Gurugram Railway Station is enclosed as Annexure-1.

10. That, if the Respondent wants to bill the DMRC Stations under tariff other than DMRC Tariff, than it will be under Bulk Supply Tariff { All other terms and conditions applicable to Railway (Traction) shall be applicable to DMRC as well)

11. That, if the Auxiliary Loads are to be billed under Bulk supply Category, then a sum of Rs 3,02,14,111 (Rupees Three Crores Two Lacs Fourteen

Thousand One Hundred and Eleven only) has to be refunded by the Respondent DHBVN to DMRC. (Para-10, Page No-6, DMRC Rejoinder dated 10.03.2025).

12. That, the appellant DMRC is regularly paying the difference between DMRC and NDS Tariff on the consumption of commercial establishments operating on spaces leased out to them by DMRC. (Para-12, Page- No-11 DMRC Rejoinder dated 10.03.2025).
13. That, the submission by the Respondent DHBVN before the Hon'ble Commission that, the metering of DMRC Traction and DMRC Stations should be made separate has not been accepted by the Hon'ble Commission.
14. That, Metro Rail throughout India such as Chennai Metro Rail Corporation (CMRL), Kochi Metro Rail Corporation Ltd (KMRL) and Mumbai Metro Rail Corporation Limited are being billed on a single tariff basis for both of their Traction and Auxiliary Loads (Para-14, Page 7 & 8 of the Appeal).
15. That, the assessment made by the Respondent DHBVN is contrary to the tariff schedule designed by the Commission and clearly attracts section 62(6) of the Electricity Act, 2003 and liable to be withdrawn.

**M.** Hearing was held on 10.06.2025, as re-scheduled. Both the parties were present and advanced arguments. During the course of the hearing, counsel for the Appellant pointed out without prejudice to their arguments regarding tenability of the recovery raised by the Respondent, even the computation of Rs. 46,43,661/- has also not been made correctly, as the same has been arrived at by applying tariff of Rs. 6.45/kwh for the traction load of 1280KVA and Rs. 6.65/kwh for the non-traction load of 6500KVA. The relevant tariff orders have been pursued applicable for the period July 2020 to May 2021.

Respondent has classified traction load and commercial load as per letter of the Appellant dated 04.02.2015 signed by additional General Manager, DMRC. In the previous orders as well, DMRC was asked to provide bifurcation of traction and non-traction auxiliary load. However, Counsel for the Appellant stated that it is not possible for them to segregate such load. In that view, the classification of traction and non-traction load can only be taken as per the letter of the Appellant, wherein they specified load required for traction during testing.



Prima facie, as regards the computation of the short-billed amount, the applicable tariff for the traction load ought to be Rs. 6.25/kwh and non-traction load as Rs. 6.45/kwh. For the purpose of effective adjudication on all issues raised by the Appellant, the Respondent SDO is directed to submit detailed computation of the short-billed amount for the period July 2020 to May 2021 while considering the applicable tariff as Rs. 6.25/kwh and Rs. 6.45/kwh for the traction and non-traction load respectively. The Respondent is further directed to also provide details of the amount already deposited by the Appellant as against the instant dispute i.e. the demand of Rs. 46,43,661/-.

Both the parties have also filed their written arguments. The order is reserved. The needful be done and the requisite documents be provided by the Respondent with an advance copy to the Appellant within 3 days positively from the issuance of this order, failing which the matter shall be decided based on the documents available on record. In the event the appellant wishes to make submission on the revised computation to be submitted by the Respondent, they may do so within 3 days after the submission of the same by the Respondent.

### **Decision**

Final hearing in the matter was held on 10.06.2025, wherein both the parties argued the matter at length. An interim order was passed on the said date whereby Respondent was asked to submit detailed computation of the short-billed amount for the period July 2020 to May 2021 while considering the applicable tariff as Rs. 6.25/kVAh and Rs. 6.45/ kVAh for the traction and non-traction load respectively. The said computation was received from the Respondent through email on 25.06.2025 but after a careful and deep perusal of tariff order FY 2020-2021 (effective from 01.06.2020) and FY 2021-2022 (effective from 01.04.2021), it was found that the correct applicable tariff from July 2020 to May 2021 shall be as follows :-

<b>Period</b>	<b>Traction Load</b>	<b>Non Traction Load</b>
July 2020 to March 2021	6.25/kVAh @ FC 160/kVA	6.75/kVAh @ FC 160/kVA
April 2021 to May 2021	Merged with HT Supply Tariff i.e. 6.45/kVAh @ FC 165/kVA	Merged with HT Supply Tariff i.e. 6.45/kVAh @ FC 165/kVA

Accordingly, Respondent SDO was directed to send revised calculation based on the tariff mentioned as per table on page no. 39 vide email dated 02.07.2025. Revised computation was received from Respondent SDO on the same day, as per which the payable amount comes to Rs. 45,61,777/-.

It is the case of the Appellant that the charging of traction load at the industrial tariff and the auxiliary load at the NDS tariff is a violation of HERC tariff schedule. It was contended that the short assessment dated 20.01.2022 claimed by the DHBVN is illegal and erroneous as the same is based on self-bifurcation of total contract demand into traction and auxiliary load. Counsel for the Appellant argued that in the HERC Tariff order for the financial year 2010-11, both the traction and auxiliary load of DMRC were put under DMRC tariff category. It was also contended that the metro rail throughout India is been billed on single tariff basis for both traction and auxiliary load.

On the other hand, Counsel for the Respondent argued that the Appellant vide their letter dated 04.02.2015 written to Respondent conveyed that the traction load per station for 8 stations was 160 KVA each amounting to total traction load of 1280 KVA. Based on the own letter of the Appellant, the bifurcation of the total sanctioned load has been made by DHBVN and the tariff applied thereon is in accordance with the order of the HERC. It was contended that HERC in its tariff order for the FY 2010-11 dated 13.09.2010 specifically stated that “.....the power supplied to various commercial establishments, hoarding, lightning etc. shall be charged at the rates determined by the Commission for those purposes i.e. the tariff category that they fall in.” It is the case of the DHBVN that the non-traction/auxiliary load such as towards lightning, advertising have to be charged at the NDS tariff and not the traction tariff determined by the HERC. In view thereof, the short assessment amount subsequently computed is as per tariff schedule, legal and valid.

I have considered the submissions made by both the parties and the documents placed on record the issue involved in the matter relates to categorization of auxiliary load/ non-traction load of the DMRC in the NDS category for the period July, 2020 to May, 2021. A perusal of the order of the HERC dated 13.09.2010 and a comprehensive reading of the order dated 01.06.2020 evince that the HERC had only specified a separate tariff for traction load until passing of the

order dated 30.03.2021, in which the traction tariff of the Appellant was merged with the HT supply. The order of the HERC dated 13.09.2010 specifically uses the expression 'hoarding, lightning, etc.', which means that the non-traction/auxiliary load of the Appellant has to be considered separately, to be billed as per the tariff category that they fall in. In fact, during the hearing of the ARR Petition for the FY 2020-21, DHBVN submitted comments in which it was explicitly mentioned that Nigam has provided special connections to DMRC for traction purpose only and electricity consumption against operation of DMRC stations (excluding traction) does not fall under the said category. Such comments of DHBVN have not been rebutted by the DMRC or dealt with by HERC to infer that the non-traction load of the Appellant shall also be billed as per the DMRC tariff. In that view, it is not feasible to accept the contention of the Appellant that single tariff has to be applied to both traction as well as non-traction load.

As was observed in the interim order dated 12.06.2025, there is no other document evincing exact classification of traction and non-traction load except the own letter of the Appellant dated 04.02.2015. The bifurcation of load therefore can only be taken as per the figures specified by the Appellant themselves in the letter dated 04.02.2015. It was however observed that the computation of short billed is incorrect as the Respondent has applied the tariff of Rs. 6.45/ kVAh for the traction load of 1280KVA and Rs. 6.65/ kVAh for the non-traction load of 6500KVA. The relevant tariff orders were pursued applicable for the period July 2020 to May 2021 and applicable tariff ought to be taken as mentioned on table at page no. 39.

Revised Computation has been done by the Respondent by applying applicable tariff as mentioned above. Short billing amount to be paid by DMRC comes out to 45,61,777/-. No objection was received from the Appellant in regards the revised computation submitted by the DHBVN. In light of the foregoing, it is ordered that Respondent should give a notice of revised calculation to DMRC for depositing the amount of short billing amounting to Rs. 45,61,777/- and earlier notice dated 20.01.2022 for an amount of Rs. 46,43,661/- be withdrawn. It is further ordered that since the correct amount will be demanded vide the fresh notice, no interest or surcharge shall be charged on the same if the same is paid



within a period of 15 days. The amount already deposited by DMRC should also be adjusted.

The instant appeal is disposed of accordingly.

Both the parties to bear their own costs. File may be consigned to record.

Given under my hand on 4<sup>th</sup> July, 2025.

Sd/-

**(Rakesh Kumar Khanna)**

**Electricity Ombudsman, Haryana**

**Dated:04.07.2025**

**CC**

**Memo No. 816-822/EO/HERC/Appeal No. 4/2025**

**Dated: 04.07.2025**

1. M/s Delhi Metro Rail Corporation Ltd., General Manager, Traction, DMRC, 6<sup>th</sup> Floor, C Wing, Barakhamba Road, Delhi
2. The Managing Director, DHBVN, Hisar
3. Legal Remembrancer, Haryana Power Utilities, Panchkula
4. The Chief Engineer Operation, DHBVN, Delhi
5. The SE Operation Circle, DHBVN, Faridabad
6. The XEN Operation, DHBVN, Old Faridabad
7. The SDO Operation, DHBVN, Sub Division Sec-21, Faridabad