BEFORE THE HON'BLE ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.4, CHUNOKOLI, SHAILASHREE VIHAR,
CHANDRASEKHARPUR, BHUBANESWAR-751023
Case No. of 2021

NOTARY (B.B. Meher) ODISHA
INDIA ONE RUPEE SPECIAL ADHESIVE
18/11/21

TPWODL	**......**	**Petitioner**
VRS		
GRIDCO & Another	**......**	**Opp.Parties**

AFFIDAVIT

I Kshirod Chandra Nanda (GM-RA & Strategy), aged about 52 years, Son of Late Radhanath Nanda residing at Burla, Sambalpur do hereby solemnly affirm and state as follows:-

1. That, I am the authorized representative of the TPWODL, in this instant petition.
2. That, I have gone through the contents of accompanying Application and am well versed with the facts laid down there-under.
3. That, the facts stated in the present application are true to the best of my knowledge and belief and the same are based upon available records.

2535 ... 18/11/21
(B. B. MEHER) NOTARY Sambalpur

Kshirod Ch Nanda.
DEPONENT

VERIFICATION

Solemnly affirmed at SAMBALPUR on this 18th day of Nov. 2021 that the contents of the above affidavit are true to my knowledge (as derived from the records), no part of it is false and nothing material has been concealed there from.

Kshirod Ch Nanda.
DEPONENT

PLACE: SAMBALPUR

DATE: 18th Nov. 2021

The deponent solemnly affirm before me today at 11.50 A.M./P.M. being identified by Sri Self Advocate, Sambalpur

Identity the deponent
(B.B. MEHER) 18/11/21
Advocate, Sambalpur
Regd No.386/79

NOTARY, Sambalpur 18/11/21

BEFORE THE HON'BLE
ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.4, CHUNOKOLI, SHAILASHREE VIHAR,
CHANDRASEKHARPUR, BHUBANESWAR-751023

Case No. of 2021

In the Matter of: An application under Sections 94 (1) (f) of the Electricity Act, 2003 read with Regulation 70 (2) of OERC (Conduct of Business) Regulations, 2004.

AND

In The Matter of: An Application seeking review of Order dated 27.10.2021 of the Hon'ble Commission passed in Case No.37 of 2021, determining the ABP of TPWODL for FY 21-22

AND

In The Matter of:

TP Western Odisha Distribution Ltd. (TPWODL)
having its Corporate Office –At/P.O./P.S.Burla
Dist. Sambalpur, represented through its Chief Executive Officer

.... Petitioner

Identified by Nanda.

VRS

1. **GRID Corporation Ltd., having its Corporate Office At/P.O.Bhoi Nagar, P.S.Sahid Nagar, Bhubaneswar Dist.Khurda, represented through its Managing Director**
2. **Odish Power Transmission Corporation Ltd. having its Corporate Office – At/P.O.Bhoi Nagar, P.S.Sahid Nagar, Bhubaneswar, Dist.Khurda Represented through its Managing Director.**

.... Opp.Parties

Humble Application of the Petitioner above named

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MOST RESPECFTFULLY SHOWETH:

1. That the Petitioner above named, files the present application seeking review of Order dated 27.10.2021 of the Hon'ble Commission passed in Case No.37 of 2021 (hereinafter referred as "ABP Order" or the "Order"). Said application was filed by the petitioner for approval of Annual Business Plan of the Petitioner for the FY-2021-2022.
2. That the Petitioner is engaged in the function of distribution and retail supply of electricity in the western zone of the State of Odisha, covering nine revenue districts. As a part of its regulatory compliance, Petitioner filed its Annual Business Plan for the FY-2021-2022, before Hon'ble Commission as per direction in the vesting order dt. 28.12.2020 (Case No. 82 of 2020) vide para 53 and as per the observation of Hon'ble Commission in para No. 403 of RST order dt. 26.03.2027 vide case No. 75 of 2020
3. Petitioner seeks review of said Order of Hon'ble Commission in respect of approval of expenses towards Employees Cost, Repair and Maintenance Cost and Administrative and General Expenses, wherein Hon'ble Commission, has though, been satisfied about the proposal of petitioner towards expenses under above heads, however, has not approved the cost in full and left gap between the proposed cost and approved cost, which would be difficult on part of the Petitioner to cover up and to meet with the targets fixed by Hon'ble Commission qua its performance.

Employees Cost:

4. Petitioner in its application had sought approval towards employees cost for recruitment of additional 850 employees (both Executive and Non-Executive) in the year FY 2021-22 based on a detailed analysis of department wise requirements over and above the existing employee strength as on the date of transfer of business to TPWODL (hereby refereed as "Effective Date"). This implied that any retirements out of the exiting employee strength on the Effective Date would be replenished and additional 850 personnel would be recruited during FY 2021-22.

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5. Hon'ble Commission was satisfied with the reasons submitted by the Petitioner towards placing said proposal. However, Hon'ble Commission has approved recruitment of 8% of total proposed manpower for the FY-2021-2022

6. It is relevant to submit that in the event of non-approval of the total employees requirement for FY 2021-22, the Petitioner would be unable to meet the employees' expenses within the approved cost, or alternately it shall be unable to meet the various Commitments as per the Vesting Order and as per Statutory requirements (Supply Code, etc.). In this context, the Hon'ble Commissions has also acknowledged the ground situation of significant shortage of employee strength.

7. Relevant Para-89 & 90 of said Order dated 17.10.2021 are extracted below:

> "89. *The Commission however, observes that the induction of 1291 new employees in executive cadre in one year will have a huge impact on the employees cost and consequently on tariff.* ***The Commission is also aware that in the DISCOMs no new significant recruitments have been made during last 10 years and DISCOMs have appreciable shortage of required manpower. The ratio of the employees vrs consumers has also widened over the years and bringing in new employees will bridge this gap for efficient functioning of the DISCOMs.*** *The Commission is not averse to allowing employee cost which is just and as per the present norms of the relevant industry. At the same time, the Commission is not inclined to fill all the required personnel/ vacancies in one year. Such largescale recruitment in a short period is bound to choke the career growth over the years besides causing tariff shock. Instead, it should be spread over a longer period." (Emphasis Supplied)*

> "90. *The Commission now allows 8% of the total proposed manpower to be recruited in the current year. This will include post facto approval for recruitment of 56 employees already made. Thus only 280 (.08X4209-56) more employees can be recruited now. Commission stipulates that the*

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new recruitments be made as per the operational requirements. The proposed expense on HR operation may also be accordingly adjusted."

8. Petitioner seeks review of aforesaid observation of Hon'ble Commission on the following grounds

    I. The observation at Para-89 that 1291 number of new employees in Executive Cadre will be inducted in one year is incorrect and erroneous. Petitioner has proposed induction of 1291 employees in the Executive Cadre and 500 employees in Non-Executive Cadre, for a period of three years; out of which 850 number of employees will be inducted in 2021-2022. Thus, the proposal of Petitioner for induction of 850 new recruits during FY 21-22.

    II. Hon'ble Commission has approved induction of only 336 employees (including 56 numbers of employees already recruited). This would not meet with the current requirement of the Petitioner. Hon'ble Commission has acknowledged the fact of the existence wide scale of gap between the present strength of employees and the consumers strength. Hon'ble Commission has also acknowledged that no recruitments have been made by the erstwhile Management for last decade. Thus, the proposal of Petitioner qua employee's recruitment is bonafide and reasonable. Thus, while Hon'ble Commission has acknowledged the same, but at the same time has allowed only 8% of **total proposed manpower which is without a basis,** ignoring the actual strength available with the Company as well as the superannuation taking place in the current year, resulting in gross inadequacy in meeting even the bare minimum requirement for the year.

    It is submitted that Employee induction required in a particular year needs to be linked to the existing strength and not the eventual strength, as has been done by Hon'ble Commission, which is clearly an error. Different Discoms have different existing employee strengths so eventually it is not justified to apply the same methodology while allowing no. of recruitments in a particular year; by this way it would

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clearly be a disadvantageous to the Discom with currently lower strength, which in fact needs more no. of employees to make up the deficit vis-à-vis with the other Discom.

III. Further, Hon'ble Commission has recognised the total strength of 4209 Employees ***based on existing strength*** and calculated 8% on such number. But at the same time, it has ignored the retirement portion completely which would also be required to be replenished to ensure total strength requirement of, which is clearly an error.

The computation of 4209 strength is considering the existing strength on taken over date, has been recognized by the Hon'ble Commission as is mentioned in the ABP Order, the relevant extract of which is reproduced below:

> *64. There is a requirement of 4209 Nos. executives and non-executives against which 2418 nos are available. Therefore, there is further requirement 1719 nos. of executives and nonexecutives. Petitioner has stated that recruitment plan has already been provided by TPCL to the Commission as per bid terms and the same has been recorded by the Commission in the vesting order vide para 45 (a), table no-6.* ***Total 4209 manpower will be deployed considering the inherited strength of employees. (Emphasis Supplied)***

Ignoring the requirement of replenishment of the superannuations since takeover while permitting additional recruitment is clearly an error apparent on face of record. It is clear that considering the annual number of superannuations, the same cannot be absorbed within the additional recruitment of 1719 (with 850 in Current Year), which, as has been stated above, is in addition to the requirement of replenishment of these superannuations.

It is further submitted that the replenishment in lieu of superannuation would not add to the existing employee costs as the superannuated personnel salaries would generally be higher (since these are senior people) than their replacements.

IV. The position of employee strength as compared with national level with respect to no of employees per 1000 consumer has been made. It is indicated below:

Sr. No	Parameters	Average in India	Under TPWODL	Remarks (source of data)
1	No of Employees / 1000 Consumers	2.47	0.8	Niti Ayog Report as mentioned below
2	Area served in Square KM per Employee	5	18	As per Purvanchal Vidyut Vitran Nigam, bench marking report & area of operation in Sq Km from individual DISCOM site

Kshirod Ch Nanda

No of Employees / 1000 Consumers: -

This data is based on the study 'Electricity Access in India - Benchmarking Distribution Utilities' carried out by Smart Power India and The Rockefeller Foundation in partnership with NITI Aayog in Oct-2020.

https://smartpowerindia.org/wp-content/uploads/2021/07/WEB_SPI_Electrification_16.pdf

b) The Study provides data on 25 Nos. DISCOMs across 10 States on various metrics, including Employees per 1,000 customers: The ratio of utility staff per 1,000 customers is an indicator of customer services. The surveyed utilities reported an average of **2.47 employees per 1,000 customers.** In TPWODL it is **0.8 Employees per 1000 consumers.**

Area served in Sq.KM per Employee:-

In India Average Sq. KM area served per Employees is 5 Sq. Km. as per 12 Nos. DISCOM Data i.e., serving area & no. of Employees captured

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through DISCOM sites & PuVVNL Benchmarking study report. At TPWODL it is 18 Sq. KM area served per Employee

Sr. No	State	DISCOM	No. of Employees	Area of operation in Sq. Km
1	Uttar Pradesh	DVVNL	7404	3135.95
2		KESCO	1723	500
3	Karnataka	BESCOM	12444	41092
4		GESCOM	4997	43861
5		HESCOM	7868	54513
6		MESCOM	3756	24049
7		CHESCOM	5048	41092
8	Madhya Pradesh	MKVVVCL	11543	77021
9		PKVVCL	11085	135162
10	Haryana	DHBVNL	18970	24208
11		UHBVNL	12812	20278
12	Rajasthan	AVVNL	16411	87256
Total			114061	55217
Area served in KM per Employee			4.84	
In TPWODL			2700	48000
Area served in Sq. KM per Employee			18	

Lavinya Ch Nanda.

It is submitted that even at a total employee strength of 4209, the Employees per 1000 customers metric shall only reach 1.90, even at the existing level of customers, thereby clearly establishing the urgent need for such additions to provide an acceptable level of customer services.

With the above alarming position of employee strength TPWODL humbly request before Hon'ble Commission to reconsider the figure 850 nos for FY 21-22.

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9. The Hon'ble Commission would appreciate the fact that, Petitioner has been granted license on certain terms and conditions. Performance of the Petitioner is the genus of which manpower is a species. Adequate and quality manpower is required for delivering the desired performance. The target fixed by Hon'ble Commission in its Vesting Order qua AT&C Losses would be difficult to meet with, if Petitioner is not allowed to induct desired and proportional number of employees in both Executive and Non-Executive Cadre. The Government of India's Electricity (Rights of Consumers) Rules, 2020 and the Hon'ble Commission's Regulations in this regard in the Supply Code provide for stringent norms, the non-compliance with which may have penal consequences, apart from issues of higher Losses, Safety, Reliability and Consumer dissatisfaction.

Other than the above for successful turnaround of TPWODL the following functions are also mandated for which additional manpower requirement is a must:

a)Capex & financing plan

b) Plan for recovery of past arrears

c) Plan for manpower stationing and senior management team

d)Plan for customer service, GIS mapping, consumer indexing

e)Any other commitments-CSR, Customer Engagement etc.

10. The new operating company is committed to collect the past arrear out of March-20 outstanding Fulfilling such target without enforcement activity would be a herculean task. Therefore, recruitment of adequate manpower is inevitable in the initial period of the operation. Further, collection of arrear amount in the initial period can be made efficiently when resources would be provided & will contribute towards old arrear because in long run consumer behavior also changes.

11. Hon'ble Commission will appreciate that presently the retirement ratio has increased. During FY 20-21, 184 employees have retired & in current year around 179 employees will be retiring. So, the gap of 363 is not only increasing the operational difficulties of the licensee but also a big challenge to recoup. Apart from above in the coming 3 to 4 years around 550 nos of employees will move to retirement fold.

12. It is an admitted fact that during 1st privatization i.e., on 1st Apr-99, the then licensee was operating with significant no of employees with consumer base of around 3 lakhs only. With no or insignificant recruitments to replenish superannuations as well as cater to higher performance norms as well as increasing no. of consumers, the employee strength has reduced to 30% with increase of consumer base by 700% times (Presently 22 lakh). TPWODL is committed for uninterrupted power supply to its entire category of consumers across 48000 sqkm area, to fulfill the customer requirement deployment of adequate manpower is a must.

13. At the time of taken over on 1st jan-21, the employee strength was only 2360 nos as a result the vacancy position in almost all functional areas was continuing. Envisaging such vacancy position, TPCL has placed the senior management deployment plan in the bidding process and also well recorded by Hon'ble Commission in the vesting order.

Departments	Key Function
Corporate Head Office/Management	• Chief Executive Officer Office • Operations • Commercial • Finance & Regulatory • IT & Technology • HR & Admin • Technical Services & Projects • Corporate Communication, PR & Govt. Affairs • Strategy, BE and BPR • Company Secretary
Operation/Maintenance	• Circle - Operation • Vigilance • CSR • Safety • Material Management
Commercial	• Circle - Commercial • Customer Service • Energy Audi
Customer service	• Covered under Commercial Department
Finance & Regulatory	• Corporate Finance • Expenditure Controls & Payables • Revenue Management • Internal Audit & Risk Appraisal • Power Management • Regulatory • Legal & Enforcement

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Human Resources and Admin	• Business HR • Strategic HR & L&D • IR & Compliances • HR Shared Services • ES&A • Chief Medical Off
Procurement & Material management	• Covered in Technical Services
IT	• Information Technology • Operation Technology
Technical Services	• Technical Analysis Group • Planning & Performance • Protection, Testing & Automation • Engineering • Project & Civil • Procurement

Considering the Operational and Statutory Compliance challenges, there is a requirement to strengthen the workforce in each of the departments as well as requirement for creation of new departments to transform the Organisation into a forward looking, technologically savvy Utility providing safe and reliable power to its customers in an efficient and customer friendly manner. The requirement for recruitment of 850 employees in the current year is imperative for achieving Objectives / targets as laid down in the Vesting Order.

14. With the above grounds Petitioner prays for allowing total recruitment plan of 850 Employees (both Executive and Non-Executive) for the FY-2021-2022 along with replenishment of the superannuating staff of Nos. from January 1'21 to March'21.

Repair and Maintenance Expense

15. Petitioner in its Application, proposed for the total Repair and Maintenance cost of Rs.234.29 crore under the broad categories of 33 & 11 KV grid substation and lines (AMC & material), safety expenses, PSCC, SCADA, GIS, transformer and other equipment repairs, civil repair and maintenance, IT related and store related material handling expenses. Hon'ble Commission has allowed only Rs.160.00

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Crore for the FY-2021-2022. Relevant observation of Hon'ble Commission is extracted below;

> "96. *The Commission in the last tariff order has approved the total Repair and Maintenance cost of Rs.109.22 crore to the erstwhile WESCO for FY 2021-22. The petitioner has proposed the total cost of Rs.234.29 crore for the year. The petitioner has proposed that through these additional expenses there will be appreciable benefits and improvement to the system. Notably for activities like ensuring safety in largely spreading geographical area, dedicated preventive maintenance through maintenance planning group (MPG), performance-based maintenance contract, in house transformer repair activities, repair of civil structures, development of micro-SCADA set up at ODSSP 33/11 KV PSS to ensure the investment made under ODSSP are fully utilised for centralised SCADA system require additional expenditure. The other measures proposed include communication link with SCADA controlled central system, substation automation, improved support services, meter management system, store related material handling and IT consumables. Some of these activities can be very well accommodated under Capex."*

> *"97. Though the Repair and Maintenance aspect is critical to the overall improvement of the distribution system the Commission considering earlier capex approval and time left in this financial year now approves the total cost of Rs.160.00 crore for FY 2021-22 against the earlier approval of Rs.109.22 cr."*

Kshirod Ch Nanda

16. Petitioner seeks review of aforesaid observation of Hon'ble Commission on following grounds;

I. Hon'ble Commission in its Vesting Order has set the terms and conditions for improvement of the system which would enhance the performance of the Petitioner. Hon'ble Commission has also been satisfied with the proposal of Petitioner qua Repair and Maintenance. However, Hon'ble Commission has not approved the proposed cost in its entirety, leaving behind a wide gap between the proposed cost and approved cost. This

NOTARY (B. B. Meher) R.No.ON-95/12 Sambalpur GOVT. OF ODISHA margin of gap would squeeze the scope and quality of improvement and would impact the overall performance of Petitioner.

II. Hon'ble Commission has not shown any reason for curtailing the expenses towards Repair and Maintenance. It is clarified that the expenditure sought under R&M is exclusively of repair and maintenance nature and the same cannot be covered under Capex as observed by Hon'ble Commission. Thus, in order to meet with the AT&C Loss trajectory as well as enhance availability and reliability of the Distribution Network, Power Supply and Consumer Convenience, Petitioner requires additional cost to be incurred towards Repair and Maintenance.

III. Hon'ble Commission in the vesting order vide para 53(d) has also observed that the new licensee is entitled for R&M on existing assets transferred to TPWODL as well as **<u>assets created out of grants which are not reflected in the books of accounts.</u>** As per vesting order Annexure-1, Gross block of Assets as on 31st march 20 is ₹.1775 crs & has been transferred to TPWODL. Other than the above the assets created out of grant under various govt projects like, ODSSP, IPDS, RLTAP, RGGVY, DDUGJY etc would be around ₹.2575 crs in TPWODL area of operation. So, effectively the asset base as 31st March-21 would be around ₹.4450 crs (appx) which would require R&M by the Utility. Accordingly, normative R&M of 5.4% on such asset base would be around ₹.240 crs (appx). Therefore, the amount of ₹.234.29 crs as proposed by TPWODL towards R&M is justified.

Kshirod Ch Nanda

17. While the Hon'ble Commission has approved a R&M Expenditure of Rs. 160 Cr. for FY 2021-22 for the existing Network, the Hon'ble Commission has erred in not providing additional outlay for the maintenance of the additional assets created by OPTCL, etc. from Govt. Grants which would need maintenance by the Petitioner.

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18. In view of the above, the Hon'ble Commission may kindly clarify that R&M Expenses relating to such assets under Govt. Projects such as ODSSP, IPDS, TLTAP, RGGVY, DDGJY, etc. shall be allowed @ 5.4% of such Assets costs in addition to the Rs. 160 Cr. allowed for the current year.

Administrative and General (A&G) Expenses:

19. Petitioner has proposed the total expenses of Rs.129.51 Crore towards A&G expenses. The increase in A&G expenses is attributed to increase number of employees, meeting with statutory compliance, housekeeping, security etc. Hon'ble Commission has approved only Rs.39.51 Crore for the FY-2021-2022. Operational portion of said Order dated 17.10.2021 is quoted herein below;

"102. *The Commission in the last ARR for FY 2021-22 has approved total A&G of Rs.63.66 crore. The Commission observes that the expenditure in the A&G is a controllable expense and as per the OERC Tariff Determination Regulation additional expenses are allowed in this head for specific measures towards reduction of AT&C losses and improving collection efficiency. We find that the proposals mainly relate to improving metering management and services and customer services which are vital elements in reducing AT&C losses. The TPWODL is a new operating company and we believe that they have planned out their activities diligently for improving the overall distribution business. At this stage we agree to allow the additional A&G expenses of Rs.39.51 crore for FY 2021- 22 which is about sixty percent of the proposed additional expenses. However, the petitioner is directed to produce the required justifications of such additional expenses under the head A&G expenses incurred in the truing up petition for FY 2021-22. The expenses under this head will accordingly be allowed after prudence check."*

20. Petitioner seeks review of aforesaid observation of Hon'ble Commission on the following grounds.

I. Petitioner proposed a cost of Rs.129.51 Crore which are minimum requirement for initiating the improvement process of MBC, call center, housekeeping, AMR, energy audit, meter testing lab, vigilance activity etc. Non-allowance of said cost in full would hinder the process of development in the system and would create genuine difficulty on part of the Petitioner to meet with its day-to-day operation.

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II. Petitioner in its application, has placed the detailed heads of expenditure and the same has also been acknowledged by Hon'ble Commission. However, the cost in full has not been approved by Hon'ble Commission, without assigning any reason to that effect.

III. The Hon'ble Commission has erred in allowing only 60% of the additional amount sought by the Petitioner, over the normative amount allowed by the Commission in its Tariff Order for FY 21-22 which was based on pre-takeover norm of approving A& G expenses with growth of 7% only on previous year's allowance of expenditure.

IV. It is submitted that the Hon'ble Commission has erred in presently allowing only 60% of the additional amount sought by the Petitioner, which is without any specific basis.

21. With the aforesaid grounds, Petitioner prays to allow the proposed expenses of Rs.129.51 Crore towards A&G Expenses. Further, it may kindly be clarified that the subsequent year's allowance of A&G Expenditure shall be based on the Trued- Up expenditure approval for FY 2021-22, with escalation @7%.

22. In view the facts and circumstances along with the grounds set in the preceding paragraphs, Petitioner humbly submits that, the Annual Business Plan submitted by Petitioner is exhaustive, illustrative, reasoned and Hon'ble Commission has been satisfied with the Plan submitted by Petitioner. However, non-allowance of the expenses in full has prejudiced the interest of the Petitioner as it would cause legitimate difficulty on part of Petitioner to meet with the expectations of the Hon'ble Commission qua performance and improvement as set out in the Vesting Order as well as the License Conditions. Further Hon'ble Commission has not assigned any reasons for curtailing the expenses as proposed by Petitioner.

Kshirod Ch. Panda.

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23. It is also relevant to submit that Petitioner took the responsibility as a Distribution Licensee from 01.01.2021. It has inherited a system which requires substantial improvement in every aspect. If Hon'ble Commission allows the cost in full as required for such improvement and growth, in the first year of Petitioner as Licensee, Petitioner would meet the AT&C Loss trajectory as fixed by Hon'ble Commission. As the AT&C Loss Trajectory is fixed at a higher level

and Petitioner has accepted the same on the premise that Hon'ble Commission would allow the Petitioner, the legitimate and reasonable expenses as would be incurred by the Petitioner for business viability and sustainability, thus, any gap in the same would cause difficulty on part of Petitioner to meet its goals and commitments made per the Vesting Order as well as comply with the various Supply Code / GoI provisions relating to Consumer Rights as explained above..

PRAYER

Therefore, it is humbly prayed that, the Hon'ble Commission may, graciously, be pleased to allow the present application and after considering the substantial submission and grounds set therein, review the observation rendered at Para-89, 90, 97 and 102 of said Order dated 27.10.2021 passed in Case No.37 of 2021 and allow the expenses in full as proposed by Petitioner.

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And for this act of kindness, Petitioner as in duty bound, shall ever pray.

Place: SAMBALPUR

Date: 18th Nov. 2021.

By The Petitioner through

Kshirod Ch Nanda

GM(RA & Strategy)

18/11/21

(B.B. MEHER)
NOTARY, Sambalpur
Regd. No.ON-95/12