BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI

ORIGINAL JURISDICTION

O.P. No. 1 OF 2025

IN THE MATTER OF:

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

Versus

Forum of Regulators and Ors. ...Respondents.

INDEX

S. No.	PARTICULARS	PAGES
1.	Rejoinder Affidavit on behalf of the Odisha Electricity Regulatory Commission/ Respondent No. 8 as per the directions dated 16.09.2026 and 26.10.2026 to the common reply filed by WESCO, NESCO and SOUTHCO (ERSTWHILE DISCOMS) dated 16.11.2026.	
2.	**ANNEXURE -R8-1** Relevant portion of the order dated 23.03.2015 passed by the State Commission.	

Date-: 18.11.2026.
New Delhi.

Ms. Anshu Malik & Mr. Rutwik Panda
Advocates for Respondent No. 8/OERC
19, R. K. Garg Lawyers' Chamber,
Supreme Court of India, Bhagaban Dass Road,
New Delhi-110001
Mobile: 9871502727
Email-: rutwikpanda@gmail.com





BEFORE THE APPELLATE TRIBUNAL FOR ELECTRICITY, NEW DELHI

ORIGINAL JURISDICTION

O.P. No. 1 OF 2025

IN THE MATTER OF:

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

Versus

Forum of Regulators and Ors. ...Respondents.

Rejoinder Affidavit on behalf of the Odisha Electricity Regulatory Commission/ Respondent No. 8 as per the directions dated 16.09.2026 and 26.10.2026 to the common reply filed by WESCO, NESCO and SOUTHCO (ERSTWHILE DISCOMS) dated 16.11.2026.

I, Shri. Upendra Kumar Pati, S/ o Shri Lingaraj Pati, aged about 63, working as Secretary, Odisha Electricity Regulatory Commission, Plot No-4, Chunokoli, Shailashree Vihar, Bhubaneswar-21, Odisha, do hereby solemnly affirm and state as follows:

1. I have gone through the content of the common reply filed by the erstwhile Discoms and understood the same. I am competent to swear this affidavit on behalf of the Odisha Electricity Regulatory Commission (OERC) R-8.

2. All the averments, submissions and pleadings filed by erstwhile DISCOMs/ revoked licensees are hereby denied, especially as admitted specifically.

3. It is humbly submitted that the averments made by the revoked licensees, as well as their prayer at paras 20 and 21 of their common

Upendra Kumar Pati

reply, are not only beyond the purview of the direction issued by this Hon'ble Tribunal dated 16.09.2026 and 26.10.2026, but also overreach the Judgment of the Hon'ble Supreme Court. The R.A. judgment, i.e. 2025 SCC Online 1637, BSES Rajdhani Power Ltd. & Anr. Versus Union of India & Ors.

4. It is humbly submitted that this Hon'ble Tribunal, vide Order dated 11.03.2026, rejected the impleadment application of the revoked licensee on the following observations: "1. ODISHA ELECTRICITY REGULATORY COMMISSION (OERC): R-8 IA NO. 173 OF 2026 (For impleadment/ intervention).

.....

We also note that these Discoms have filed various appeals against the tariff orders passed by the OERC relating to the period prior to 2015 which are still pending disposal before this Tribunal. Therefore, the exact amount to which these Discoms are entitled to, if any, is yet to be computed, and the same would be known upon disposal of the appeals by this Tribunal.

Having said so, we are of the opinion that without formally impleading these licensees as Respondents in this petition, they should be given an opportunity to appear and assist us in arriving at a just conclusion in this petition. Therefore, these Discoms **may appear and assist us** on the relevant dates as and when the matter relating to OERC would come up in this petition.

The application is disposed of accordingly."

5. That on 16.09.2026, the Hon'ble Tribunal passed the following Order-

"ODISHA ELECTRICITY REGULATORY COMMISSION (OERC): R-8

An affidavit dated 23.09.2025 has been filed by the Commission. Mr. Buddy A. Ranganadhan, Learned Senior Counsel appearing on

Secretary
Odisha Electricity Regulatory Commission
Plot No-04, Chunokoti, Shubaneswar-21

NOTARY
N. BEHERA
BHUBANESWAR
REGD NO. OR/78/2003
EXPIRY ON-31/12/2028
GOVT. OF ODISHA (INDIA)

behalf of the erstwhile Discoms in the State of Odisha operating prior to the year 2015 submits that the contents of the affidavit are not correct and seeks permission to file response to the same. Let these Discoms file response within two weeks. The Commission may, if so desires, file rejoinder to the response filed the Discoms within two weeks thereafter."

That on 26.10.2026, this Hon'ble Tribunal granted further 2 weeks' time to file their reply pertaining to the OERC/ Commission affidavit dated 23.09.2025.

Whereas the present reply filed by the revoked DISCOMs is not in conformity with the specific directions of this Hon'ble Tribunal dated 16.09.2026 and 26.10.2026.

Thus, the entire Common reply of the revoked Discoms is not admissible under the law.

6. This is a gross case of misuse of the liberty granted by the Hon'ble Tribunal in its order dated 11.03.2026. In the said proceedings, the Hon'ble Tribunal declined to implead the present revoked licensees as a party respondent. However, liberty was granted to the revoked DISCOMs "to act as amicus curiae". However, from the present reply of the revoked RIL-DISCOMs, it is established that they are trying to get ex parte order/ finding/ observations on the issues, on which appeals are being filed by them before this Hon'ble Tribunal, namely;

On BSP issues - A. No. 188 of 2025; WESCO & Ors. Versus OERC & Ors.

On RST issues - A. No. 213 of 2025; WESCO & Ors. Versus OERC & Ors.

On Vesting Order -A. No. 181 of 2023; WESCO Versus OERC & Ors.

A. No. 182 of 2023; SOUTH Versus OERC & Ors. And

NOTARY * GOVT. OF ODISHA (INDIA) * N. BEHERA BHUBANESWAR REGD NO.-ON 39/2003 EXPIRY ON-31/12/2028

Odisha Electricity Regulatory Commission

A.No. 188 of 2023; NESCO Versus OERC & ors.

On the **Liabilities of revoked RIL-licensees** *-

A. No. 314 of 2021; Reliance Infrastructure Ltd versus OERC & Ors.

A. No.157 of 2023; WESCO & Ors. versus OERC & Ors.

* (Which were remanded back to the State Commission for re-consideration with the consent of all the parties vide order dated 03.11.2026.)

7. The approach of the revoked licensees is not only an abuse of the process of law, but also an attempt to overreach the mandate of Section 20 (c) of the Electricity Act, 2003 and Section 20 (d) of the Orissa Electricity Reforms Act, 1995. In these statutory provisions, the revoked licensee is **"absolutely ceased"** from all the rights and claims prior to the revocation of its distribution license.

It is a well-settled principle that "what is not permissible directly cannot be obtained indirectly".

Secondly, the said approach of the revoked licensee amounts to re-agitating the issue which was already denied by this Hon'ble Tribunal in the present matter, proceeding dated 11.03.2026 in which it has held, "..We also note that these Discoms have filed various appeals against the tariff orders passed by the OERC relating to the period prior to 2015 which are still pending disposal before this Tribunal. Therefore, the exact amount to which these Discoms are entitled to, if any, is yet to be computed, and the same would be known upon disposal of the appeals by this Tribunal."

Thirdly, as per the direction of this Hon'ble Tribunal dated 12.09.2025, the State Commission filed affidavits on 23.09.2025 to the I. As filed by the two existing discoms, TPSODL and TPCODL.

Odisha Electricity Regulatory Commission
Secretary

NOTARY
N. BEHERA
BHUBANESWAR
REGD NO.-ON 39/2003
EXPIRY ON-6/11/2028
GOVT. OF ODISHA (INDIA)

The I.A. No. 1290 of 2025 was filed by TPSODL, and I.A. No. 1291 of 2025 was filed by TPCODL, in terms of the direction given by this Hon'ble Tribunal on 12.09.2025 on audit of TPSODL and TPCODL. Thus, the revoked licensee has no locus to intervene in the matter of Tata DISCOMS.

Fourthly, the grievance of the TWO TATA DISCOMS has already been addressed on 02.12.2025 in their presence. On 21.11.2025, the State Commission filed an additional affidavit in terms of the direction dated 11.11.2025 and sought 5 equal instalments to liquidate the existing Regulatory Asset/revenue gap of Rs. 280.06 Cr of two Tata DISCOMS (TPCODL and TPSODL). The said prayer was allowed on 2nd December, 2025. The Hon'ble Tribunal passed the following Order,

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

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

In the affidavit, now filed on behalf of the OERC, it is stated that carrying cost shall be provided, on the revenue gap as reflected in its order dated 24.03.2025, to the concerned discoms i.e. TPCODL and TPSODL.

The affidavit, now filed on behalf of the OERC, is in terms of the directions issued by the Supreme Court in its order dated 06.08.2025 as modified by its order dated 28.10.2025."

Fifthly, the Audit Reports of TPCODL and TPSODL were also taken on record in the proceedings dated 13.07.2026.

Odisha Electricity Regulatory Commission
Bid Mgt. Cell, Chandrasekharpur, Bhubaneswar-21

NOTARY
N. BEHERA
BHUBANESWAR
GOVT. OF ODISHA (INDIA)

PARAWISE REPLY

8. That the averments of paras 1, 2 and 5 are incorrect and hence are denied. The Hon'ble Tribunal only gave liberty to file reply "only" on the State Commission's affidavit dated 23.09.2025 in its proceedings dated 16.09.2026. The entire contention of the Revoked RIL-DISCOMS goes beyond the specific directions of this Hon'ble Tribunal, as they disputed all the State Commission's affidavits; thus, their reply is not sustainable in law.

It is humbly submitted that the Hon'ble Tribunal, upon adjudication on the affidavits of the State Commission as well as the RST orders of the Commission, addressed the issue of Regulatory Assets & its disbursement, and engagement of the auditors.

Both the issues of Regulatory Assets and appointment of Auditors are already decided by the Hon'ble Tribunal in terms of the Hon'ble Supreme Court direction. The averments of the revoked RIL-DISCOMS are otherwise a substitute to say that the entire adjudication of the Hon'ble Tribunal is wrong.

9. That so far as paras 3 and 4 of the common reply of the revoked RIL-DISCOMS are concerned, it is humbly submitted that the revoked licensees are not coming within the purview of the R.A. Judgment of the Hon'ble Supreme Court.

It is humbly submitted that the R. A. Judgment of the Hon'ble Supreme Court is based on the Electricity (Amendment) Rules, 2024. The said rule came into force on 10.01.2024. It is prospective in nature, whereas the Distribution licensees of the RIL-DISCOMS were revoked on 04.03.2015. For ready reference, Rule 1(2) of the Rules, 2024 quoted herewith:-

"1(2) They shall come into force on the date of their publication in the official Gazette."

The Hon'ble Supreme Court also, at para 71 (v) of its Judgment dated 06.08.2025, specifically stated that the regulatory asset as on 01.04.2024 must be liquidated within a maximum of 4 years starting

Odisha Electricity Regulatory Commission

NOTARY
N. BEHERA
BHUBANESWAR
REGD. NO.-ON 39/2003
EXPIRY ON-8/11/2028
GOVT. OF ODISHA (INDIA)

from 01.04.2024. (which was later extended to 7 years, Vide Order dated 28.10.2025 by the Hon'ble Supreme Court).

The Hon'ble Tribunal on 29.08.2025 passed the following directions:

"We, therefore, direct all the Regulatory Commissions to file their respective affidavit within two weeks from today furnishing details of (a) the Regulatory Assets with respect to each Discoms, within their jurisdiction, as on 01.04.2024; (b) the Revenue Gap (whether carried forward or not) as reflected in each ARR upto 01.04.2024; (c) the trajectory/ roadmap for liquidation of these Regulatory Assets/ ending the revenue gap upto 01.04.2024, so as to ensure that the entire Regulatory Assets/ Revenue Gap is liquidated latest by 31.03.2028; (d) the steps taken by each of the Commissions to commence an intensive audit of the circumstances in which the Distribution Companies, operating within their jurisdiction, have continued to function without recovery of the Regulatory Assets/ Revenue Gap; and (e) the year upto which each of these Commissions have passed true up/ ARR orders with respect to each of the Distribution Companies within their jurisdiction."

10. That further, on 11.11.2025 the Hon'ble Tribunal passed an Order, in which again the cut-off date of 01.04.2024/ 31.03.2024 was mentioned. The Hon'ble Tribunal has held as follows, "The order of the Supreme Court dated 28.10.2025 has resulted in Para 71(v) of its earlier order dated 06.08.2025 being modified and substituted as under:

"The existing regulatory asset must be liquidated in a maximum of 7 years as provided in Rule 23 of the Electricity (Amendment) Rules, 2024."

The earlier order required the Regulatory Commissions to ensure that the entire regulatory assets along with carrying cost as on 31.03.2024 be liquidated in its entirety before 31.03.2028. The change now brought out by the amended order is that the period, for liquidation of the regulatory assets along with carrying cost as on 31.03.2024, stands extended till 31.03.2031. However, the 3rd

Odisha Electricity Regulatory Commission
Plot No.-04, Chunokoli, Bhubaneswar-21

NOTARY
N. BEHERA
BHUBANESWAR
REGD NO.-ON 39/2003
EXPIRY ON-8/11/2026
GOVT. OF ODISHA (INDIA)

proviso to Rule 23 appears to require the regulatory asset along with carrying cost, as specified in the Electricity Late Payment Surcharge and related matters Rules, 2022, to be liquidated in a maximum of 7 equal yearly instalments starting from 01.04.2024. The scope and purport of Rule 23 shall be examined after the concerned Commissions are heard in this regard…"

In addition to the above, the Supreme Court in para 1 of R.A. Judgement has held that the rights and liabilities are not determined in the said proceedings. For ready reference, para 1 of the R.A . Judgement is quoted herein below:-

"*1. We are entertaining these writ petitions and civil appeals only for examining a limited question as to the law that governs the creation of a "regulatory asset" during the process of tariff determination by the Electricity Regulatory Commissions, its impact on the rights and liabilities of the stakeholders, the limits within which it can be operated, and finally the regulatory duties that it invokes for the Regulatory Commissions. We also clarify that through these proceedings, we are not determining the rights and liabilities of the parties, which will anyway be considered in the pending civil appeals against the orders of the Appellate Tribunal of Electricity."*

Further, there were no appeals of the revoked RIL-DISCOMS relating to "Regulatory Assets" as identified by the Hon'ble Supreme Court pending.

Thus, it is submitted that the R.A Judgement and as well as the 2024 Rules, do not applicable to the revoked licensees.

11. That in pith and substance, the direction issued by the Hon'ble Supreme Court in R.A. Judgment r/w Rules 2024 established that the Regulatory Asset is coming within the purview of the regulatory framework. The Hon'ble Tribunal initiated the proceedings under Section 121 of the E.A., 2003 in terms of the Hon'ble Supreme Court's direction. Section 121 confines itself only to the issues on the "function of the State Commission", and it's not for deciding the

Secretary
Odisha Electricity Regulatory Commission
Plot No-04, Chunokoli, Bhubaneswar-21

NOTARY
N. BEHERA
BHUBANESWAR
REGD. NO.-ON 307/2003
EXPIRY ON-6/11/2028
GOVT. OF ODISHA (INDIA)

claim of a person who is barred by Statue, and that too, who otherwise has no locus and/or nor a stakeholder.

12. It is humbly submitted that RIL-DISCOMS are no longer distribution licensees as of 01.04.2024; their distribution licenses were revoked on 04.03.2015. Further, Section 20(c) of the Electricity Act, 2003, and Section 20(d) of the Orissa Electricity Reforms Act, 1995, **absolutely ceased all the rights** of the revoked distribution licensees.

13. That so far as para 6 is concerned, the revoked licensees deliberately withdraw the portion of the finding of the Hon'ble Tribunal dated 11.03.2026 which held as "we also note that these Discoms have filed various appeals against the tariff orders passed by the OERC relating to the period prior to 2015 which are still pending disposal before this Tribunal. Therefore, the exact amount to which these Discoms are entitled to, if any, is yet to be computed, and the same would be known upon disposal of the appeals by this Tribunal."

    It seems that the revoked licensees tried to misuse the process of law and overreached Section 20 of the Electricity Act, 2003.

14. That so far as paras 7 and 8 are concerned, it is humbly submitted that the revoked DISCOMS have not correctly stated the facts, and thus are denied. The affidavit filed by the State Commission dated 26/05/2026 regarding the Auditor Report of two discoms, namely TPCODL and TPSODL, in terms of the direction dated 06.04.2026.

    In the presence of Tata DISCOMs ' counsel, the Auditor Report and opinion of the State Commission were taken on record by the Hon'ble Tribunal in the proceedings dated 13.07.2026.

15. The averments made in Paras 9 to 15 of the common reply of the revoked RIL-DISCOMS are not correctly stated and thus are denied. It is already mentioned that the Hon'ble Tribunal has already declined to entertain such disputes in the present proceedings in its order dated 11/03/2026.

NOTARY
N. BEHERA
BHUBANESWAR
REGD NO. OR/
EXPIRY ON-07/12/2026
GOVT. OF ODISHA (INDIA)

Odisha Electricity Regulatory Commission

The revoked licensees have not even provided the details of the appeals, namely. No. 188 of 2025; WESCO & Ors. Versus OERC & Ors. And Appeal No. 213 of 2025; WESCO & Ors. Versus OERC & Ors. in their Affidavit dated 16.11.2026. The reason is best known to them.

Interestingly, the RIL-DISCOMS neither disclose the pendency of appeals on the issues filed by them, nor what steps they have taken regarding repaying their liabilities, at least of those which are recognised in the distribution license revocation proceedings, which were upheld by this Hon'ble Tribunal and the Hon'ble Supreme Court of India.

16. It seems that the revoked licensees are trying to get an ex -parte order in the absence of other stakeholders, including GRIDCO Ltd, and the State Government, who are not the parties before the present proceedings.

17. Further, the revoked licensees are trying to avoid the due statutory procedure as well as the issue of their locus standi.

18. That so far as paras 16 and 17 are concerned, it is humbly submitted that the revoked licensees have not correctly appreciated the averment of the Commission filed before the Hon'ble Supreme Court. All these averments are on the actual Distribution loss (presumptive Distribution loss) as obtained (declared) by the erstwhile RIL-Discoms. This Hon'ble Tribunal, as well as the Hon'ble Supreme Court, held that such presumptive or actual loss of the appellants could not be allowed. Please see relevant extracts from various orders passed from time to time:

- Detailed order passed in Para 20 (A) of the Commission's judgment dated 17.05.2025 in Cases No. 44-46 of 2005, which was challenged by the applicants in Appeal No. 213 of 2025.

Odisha Electricity Regulatory Commission
Plot No-04, Chunokoli, Bhubaneswar-21

NOTARY
N. DHERA
BHUBANESWAR
REGD. NO.-ON 39/2003
EXPIRY ON-01/11/2026
GOVT. OF ODISHA (INDIA)

- Para 41 (a) of this Hon'ble Tribunal Judgment dated 21.08.2017 in Appeal No. 64 of 2015. (Revocation Judgement)

(a). … The Appellant's contention that the State Commission has fixed notional loss in an unrealistic manner is not correct because the above table shows that the State Commission more or less accepted the loss projection made by the Appellants and gradually reduced the target figure, but the Appellants made no efforts to achieve the target….The Appellants did not even achieve their own target of loss reduction."

"43. ..The State Commission has rightly observed that truing up of accounts on a particular item such as distribution loss, as per directive of this Tribunal, could not take place on account of non-submission of energy audit data by the licensees, **and the presumptive loss figure cannot be taken into consideration for truing up."**

- This Hon'ble Tribunal Judgment dated 03.07.2013 in Appeal No. 26, 27 & 28 of 2009, A. No. 160, 161, and 162 of 2010, No. 147, 148, and 149 of 2011, and A. No. 193, 194, 195, and 196 of 2012 have held that... At **"para 31. ...We also reject the contention of the appellants that loss levels have to be adjusted as per actuals"**

- In para 75 and 77 of the Hon'ble Supreme Court's Judgement dated 05.10. 2023 upheld the same. (2024) 2 SCC 500; GRIDCO Ltd. Vs. WESCO Ltd and Ors. At Para 75 the Hon'ble Supreme Court has held, "**However, the argument of DISCOMS that the loss levels will have to be adjusted as per the actuals was rejected.** The reason given by the Appellate Tribunal is that the actual loss levels clearly indicate the large quantum of commercial losses. It was for DISCOMS to curb and reduce commercial losses."

- In para 77 the Hon'ble Supreme Court has held that, " 77. As regards the notional sales, ….. **The Appellate Tribunal held that the power purchase cost admissible to the DISCOMS has to be**

Odisha Electricity Regulatory Commission
Bid No-04, Chunokoli, Bhubaneswar-21

NOTARY
N. BEHERA
BHUBANESWAR
GOVT. OF ODISHA (INDIA)

determined on the basis of the estimated sales revenue and the targeted distribution loss."

- In para 40 the Hon'ble Supreme Court has held that, "We may note here that while passing an order pursuant to the order of remand, all the contentions based on the findings of the Appellate Tribunal and the Commission for subsequent years, as approved by this Court, must be taken into consideration by the Commission. If, in subsequent orders as approved by this Court, different criteria or different principle was applied, submissions based on the same can always be canvassed in the proceedings pursuant to the order of remand."

In addition to the above, it is humbly submitted that all these averments/ pleadings are prior to the revocation order of the Commission dated 04.03.2015, which was upheld by this Hon'ble Tribunal on 21.08.2017 and the Hon'ble Supreme Court vide order dated 24.11.2017.

Further, the revoked licensees chose only selective pleadings of the State Commission.

19. All the issues before 2015 revocation have been addressed by this Hon'ble Tribunal in its Judgment dated 21.08.2017 in Appeal No. 64 of 2015, the Hon'ble Supreme Court in Judgement dated 05.10.2023; (2024) 2 SCC 500; GRIDCO Ltd. Vs. WESCO Ltd and Ors, and the State Commission's Order dated 09.05.2025 & 17.05.2025. The revoked RIL-DISCOMS are trying to overreach the same.

20. That so far as paras 18, 18.1 to 18.10 and 19 of the common reply of the revoked licensees are concerned, it is humbly submitted that the revoked licensees are not only misleading the facts but also trying to get ex- parte order in the absence of necessary parties and on the issues on which they filed appeals before this Hon'ble Tribunal.

Odisha Electricity Regulatory Commission
Secretary

NOTARY
N. BEHERA
BHUBANESWAR
REGD. NO-
EXPIRY ON-
GOVT. OF ODISHA (INDIA)

The proceedings and orders referred to have no relevance, so far as the present proceedings U/s 121 EA 2003 on "Regulatory Asset" are concerned. It is already stated above that the R. A. Judgment of the Hon'ble Supreme Court, dated 06.08.2025, is based on the Electricity (Amendment) Rules, 2024. The said rule came into force on 10.01.2024. It is prospective in nature, whereas the Distribution licensees of the RIL-DISCOMS were revoked on 04.03.2015.

21. It is further submitted that the revocation Judgement was passed on 04.03.2015 by the State Commission. The said revocation judgment was upheld by this Hon'ble Tribunal in its Judgment dated 21.08.2017, passed in Appeal No. 64 of 2015, and by the Hon'ble Supreme Court's order dated 24.11.2017 in Civil Appeal No. 18500 of 2017. According to Section 20 (1) (c) of the Electricity Act, 2003, and Section 20 (1) (d) of the Orissa Electricity Reforms Act, 1995, all the rights, duties, and obligations of the revoked license shall absolutely cease from the date of revocation. For ready reference, the above two statutory provisions are quoted herein,

The Electricity Act, 2003.

"Section 20. (Sale of utilities of licensees): --- (1) Where the Appropriate Commission revokes under section 19 the licence of any licensee, the following provisions shall apply, namely:-.....

(c) all the rights, duties, obligations and liabilities of the licensee, on and from the date of revocation of licence or on and from the date, if earlier, on which the utility of the licensee is sold to a purchaser, shall absolutely cease except for any liabilities which have accrued prior to that date;.."

The Orissa Electricity Reforms Act, 1995

20. Provisions where licence is revoked.

1. Notwithstanding the provisions of Sections 6 and 7 of the Indian Electricity Act, 1910 where the Commission revokes a licence, under Section 18 the following provisions shall apply –

Secretary
Odisha Electricity Regulatory Commission

NOTARY
N. BEHERA
BHUBANESWAR
GOVT. OF ODISHA (INDIA)

.....

(d) on and with effect from the date of revocation, or, where the undertaking of the licensee is sold to a purchaser earlier in pursuance of any of the provisions of this Act, on and with effect from the date, all the rights, duties, obligations and liabilities of the licensee under this Act shall absolutely cease and determine except for any liabilities that have accrued prior to that date."

22. That it is humbly submitted that, to take over, control, and manage the three Distribution utilities, the parent Company (RIL) bought 51% shares (at Rs.117/- Crores only) of the three distribution utilities at the time of the grant of Distribution licenses. When the revocation proceedings under Section 19 of the Act, 2003 were taken out, it was found that RIL sold out the shares and retained only 0.002% of the share. This Hon'ble Tribunal, in its Judgement dated 21.08.2017 in Appeal No. 64 of 2015 (@ para 47), has observed as follows,

"*47. Admittedly, RIL took over 51% shares in the Appellants. Having obtained controlling interest at a sum of Rs.117 crores, it was expected to invest sufficient funds to improve performance of the Appellants. Instead of doing that, RIL gradually diluted its shareholding from 51% to 0.002%. The shares were transferred to companies having no relevant experience in the power sector. This was in gross violation of the disinvestment scheme, the provisions of the Shareholders Agreement, and Section 17 of the Electricity Act and Section 21 of the Orissa Electricity Reforms Act. Even if the CLB, as stated by the Appellants and RIL, has approved the transfer of shares, from the perspective of the electricity sector, the State Commission found the same to be not in public interest. The State Commission cannot be faulted for it.*"

(Note: RIL obtained 51% share, and Gridco Ltd. has 49% shares of the three distribution utilities, during the period of granting distribution licenses to the three Discoms of RIL. The RIL-DISCOMS are managed and operated by RIL)

NOTARY * N. BEHERA BHUBANESWAR * GOVT. OF ODISHA (INDIA)

Odisha Electricity Regulatory Commission
Plot No-04, Chunokoli, Bhubaneswar-21

23. That is humbly submitted that, according to the Shareholder Agreement dated 01.04.1999, the three RIL-DISCOMS were operated by the Directors appointed by RIL. For ready reference, the relevant clause of the Shareholder Agreement is quoted herewith,

"**5. Management**

5.1. The directors appointed by ***the Investors***** including any Managing Director if considered necessary by the Investor, shall be responsible for the day to day management of the business.*

5.2. No director (including the chairman) appointed by GRIDCO shall have any executive responsibility relating to Wesco unless specifically agreed otherwise by the Investor. No director appointed by the Trustees shall have any executive responsibility." * RIL (Reliance Infrastructure Ltd)

Thus, even the affidavit filed by the revocation licensee before this Hon'ble Tribunal is questionable.

24. That, visualising such type of misconduct, the legislature in its wisdom passed the Electricity Act, 2003 and the OER Act, 1995 in which all the rights of a revoked licensee absolutely cease, but not their liabilities.

25. That it seems, to avoid their liabilities, the revoked licensees pleaded in such a manner in their reply affidavit.

26. That as per the finding of this Hon'ble Tribunal in Judgment dated 21.08.2017 passed in Appeal No. 64 of 2015, the total erosion of net worth of the three Discoms as found in the revocation proceeding was negative Rs. 2424.23 Cr. (NESCO -906.31 Cr, WESCO -715.62 Cr, and SOUTHCO -802.30 Cr in Rs.). The revoked licensee's outstanding dues to Gridco Ltd. were Rs. 2,600/- Cr. (at para 41.b and 56). Similarly, there are serious financial irregularities that were identified, such as the issue of Startup and Construction power (At Para 41. n), terminal benefits (Para 41.k). GRIDCO Ltd had relaxed the escrow to the extent of Rs.4084.91 crores. (Para 43).

NOTARY
N. BEHERA
BHUBANESWAR
REGD NO. OR/
EXPIRY ON-
GOVT. OF ODISHA (INDIA)

22

Odisha Electricity Regulatory Commission
Plot No-04, Chunokoli, Bhubaneswar-21

27. That the distribution licenses of the RIL-DISCOMS were revoked due to their inefficiency, pathetic service, and failure to run the distribution utilities. Now, from their pleadings, it seems that they want all these to be ignored, and all their liabilities shall be passed on to others.

28. That it is humbly brought to the notice of this Hon'ble Tribunal, that in earlier occasion, the present revoked licensees were restrained to interfered with and making claims in Regulatory affairs and Tariff determination proceedings. In Appeal No. 23 of 2023, D.F.R. No. 2250 of 2019; NESCO and Ors. Vs. OERC and Ors., the present revoked licensees challenged the ARR and RST Order for FY 2018-19 passed by the State Commission on 22.03.2018 in Case Nos. 79-81 of 2017, and prayed for the disbursement of interest, depreciation, etc. as applicable to the Distribution Utilities. The said appeal was dismissed vide order dated 19.01.2023, with liberty to the applicants to pursue other remedies. For better appreciation, the order dated 19.01.2023 is quoted herein,

"**ORDER**

After arguing for some time, Mr. Buddy A. Ranganadhan, learned Counsel for the Appellant fairly states that, instead of adjudicating the Appeal on its merits, it would suffice if this Tribunal were to grant the Appellant liberty to pursue such other remedies, as are available to them in law, for the relief which they had sought before the Commission in the order under review. We see no reason to deny the Appellant the liberty sought for by them. Granting the Appellant liberty as sought for, the Appeal is dismissed as not pressed."

29. That the vesting order of the State Commission in which Tata Power Company Limited was granted the distribution licensees for the State of Orissa is being challenged by the revoked licensees in the following appeals;

A. No. 181 of 2023; WESCO Versus OERC & Ors.

A. No. 182 of 2023; SOUTH Versus OERC & Ors. And

A.No. 188 of 2023; NESCO Versus OERC &ors.

Odisha Electricity Regulatory Commission
Plot No-04, Chunokoli, Bhubaneswar-21

NOTARY
N. BEHERA
BHUBANESWAR
REGD. NO.
EXPIRY ON
GOVT. OF ODISHA (INDIA)

Thus, again reiterate that the same contentions here amount to an abuse of the process of law.

30. That in the original proceeding, neither State Government nor GRIDCO Ltd. is a party. Thus, making statements by revoked licensees on GRIDCO Ltd. is amounts to unethical practice.

31. As per the ARR & RST for FY 2015-2016 passed in Case Nos. 69, 70, 71 and 72 of 2014 on 23.03.2015 by the State Commission, all three revoked licensees had positive ARR. Further, truing up of DISCOMS/ Revoked licensees up to FY 2013-14 was done in the aforesaid proceedings.

Relevant portion of the order dated 23.03.2015 passed by the State Commission is annexed herewith as **Annexure R8-1**.

It is humbly submitted that these proceedings are being conducted in the presence of the revoked licensees and on their applications. The said determination of ARR & Truing-up up to FY 2013- 2014 has not been challenged by any party, and as such attains finality.

32. That during the operation of the ARR and RST for FY 2015-16, the distribution licenses of the RIL-DISCOMS were revoked vide Order dated 04.03.2015 in Case No. 55 of 2013. On the said date, another order was passed in which the Administrator (Gridco Ltd.) was appointed to run the distribution utilities. Gridco Ltd. is not a party in the present proceeding.

33. That the prayer made in Paras 20 and 21 is not tenable under law, as stated earlier;

1. Present revoked licensees were declined to be impleaded as parties in the present case, vide order dated 11.03.2026.

Odisha Electricity Regulatory Commission
Plot No-04, Chunokoli, Bhubaneswar-21

NOTARY
N. BEHERA
BHUBANESWAR
GOVT. OF ODISHA (INDIA)

2. Sec 20 of the Electricity Act, 2003 and Sec 20 of the Orissa Reforms Act, 1995 barred the revoked licensees, and all rights absolutely cease except liabilities.

3. That this Hon'ble Tribunal in the proceedings dated 11.03.2016 has held that "We also note that these Discoms have filed various appeals against the tariff orders passed by the OERC relating to the period prior to 2015 which are still pending disposal before this Tribunal. Therefore, the exact amount to which these Discoms are entitled to, if any, is yet to be computed, and the same would be known upon disposal of the appeals by this Tribunal."

4. That the Appeals filed by revoked licensees on RST & BSP are pending. (Appeal No. 188 of 2025; WESCO & Ors. versus OERC & Ors. And Appeal No. 213 of 2025; WESCO & Ors. versus OERC & ORS.)

5. Similarly, the appeals against the vesting orders are pending:-

   A. No. 181 of 2023; WESCO Versus OERC & Ors.

   A. No. 182 of 2023; SOUTH Versus OERC & Ors. And

   A. No. 188 of 2023; NESCO Versus OERC & Ors.

6. That the necessary parties, like the State Government, GRIDCO Ltd. & other stakeholders, are not parties in the present proceedings.

7. The prayer made by revoked licensees is extraneous to the direction of the Hon'ble Supreme Court R.A. Judgment.

Odisha Electricity Regulatory Commission
Secretary

NOTARY
N. BEHERA
BHUBANESWAR
GOVT. OF ODISHA (INDIA)

8. The revoked licensees do not come within the purview of the Electricity (Amendment) Rules, 2024.

In view of the above submission, the prayer made by the revoked licensees dated 16.11.2026/06.11.2026 may be negated and dismissed.

34. The Annexure is true and correct.

35. That the deponent craves leave of this Hon'ble Tribunal to file such additional affidavit, reply, documents if so required, for the interest of justice.

36. That the contents of the present affidavit are true and correct.

Upendra Kumar Pati

DEPONENT

Secretary
Odisha Electricity Regulatory Commission
Plot No-04, Chunokoli, Bhubaneswar-21

VERIFICATION

I, Shri. Upendra Kumar Pati, S/ o Shri Lingaraj Pati, aged about 63, working as Secretary, Odisha Electricity Regulatory Commission, Plot No-4, Chunokoli, Shailashree Vihar, Bhubaneswar-21, Odisha, do hereby verify that the contents of paras 1 to 36 are true and correct to my knowledge and that I have not suppressed any material facts.

Verified at Bhubaneswar, Odisha, on this 18th day of November, 2026.

NOTARY * GOVT. OF ODISHA (INDIA) * N. BEHERA BHUBANESWAR REGD. NO-ON-39/2003 EXPIRY ON 11.2028

Upendra Kumar Pati

DEPONENT

Secretary
Odisha Electricity Regulatory Commission
Plot No-04, Chunokoli, Bhubaneswar-21

IDENTIFIED BY ME
18/11/2026
ADVOCATE, BHUBANESWAR
FULL NAME Hrudananda Pradhan.

NILAMANI BEHERA
NOTARY BHUBANESWAR
GOVT. OF ODISHA (INDIA)
REGD. NO- ON-39/2003
18/11/26