



## ARUNACHAL PRADESH STATE ELECTRICITY REGULATORY COMMISSION

ITANAGAR

BEFORE THE ADJUDICATING OFFICER

In the matter of:

A petition under Section 27 of the Energy Conservation Act, 2001 for adjudication of the penalty under Section 26 of the Energy Conservation Act, 2001 by the adjudicating Officer and for directions to the Department of Power, Arunachal Pradesh to make payment of penalty as adjudicated by the adjudicating Officer.

In the matter of:

The Bureau of Energy Efficiency. (BEE)

Versus

Department of Power, Arunachal Pradesh. (DOP, AP)

... Respondent.

Appearance:

1. Advocate Kartikey Nayyar, for petitioner (BEE)
2. Mr. Rajendra Sharma, Sector Expert (Legal), (BEE)
3. Er. Duyu Tacho, C E, (P) (Comm), (DOP, AP).
4. Er. Okom Siram, S E, (Comm), (DOP, AP).
5. Er. Mallo Jirjo, J E (Comm), (DOP, AP).
6. Er. Rajesh Sharma, J E (Comm), (DOP, AP).

Coram: Adjudicating Officer, Hon'ble Mr. Nich Rika, Member (Law).

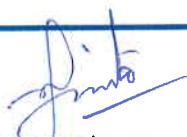
Date of Hearing: 28. 05. 2025

Date of Order: 04 .07. 2025

## ORDER

1. The Petitioner, Bureau of Energy Efficiency (in short "BEE"), a statutory body set up by Government of India on 01.03.2002 under the provisions of the Energy Conservation Act, 2001. The principal objective of the BEE is to assist in developing policies and strategies with a thrust on self-regulation and market principles, within the overall frame work of the Energy Conservation Act, 2001 (in short "Act") with the primary objective of reducing energy intensity of the Indian economy. It further co-ordinates with Designated Consumers (DCs), Designated Agencies and other organization and recognized, identify and utilized the existing resources and infrastructure in performing the function assigned to it under the Energy Conservation Act, 2001.
2. On the other hand, the Respondent, Department of Power, Government of Arunachal Pradesh is the sole State-owned licensee in State of Arunachal Pradesh for distribution of electricity. it is assigned to carry out all the activities of power sector, enforced upon the relevant Acts and Rules of Electricity.
3. This petition has been filed under Section 27 of the Energy Conservation Act, 2001 for adjudication of the penalty under Section 26 of the Energy Conservation Act, 2001 and directions to the Respondent to make payment of penalty as adjudicated by Adjudication Officer.
4. The petitioner prayed for following in its petition:
  - a. Direct the Adjudicating Officer for holding an enquiry for the purpose of adjudging the penalty under Section 26 of the Energy Conservation Act, 2001 for non-compliance of the Regulation by the Respondent,
  - b. Direct the Respondent to make payment of penalty as adjudicated by the Adjudicating Officer,
  - c. Direct the Respondent to comply with the Regulation notified by the Petitioner and submit the requisite form for Energy Audit as provided in the Regulation,
  - d. Pass any such other and further orders as are deemed to fit and proper in facts and circumstances of the case.

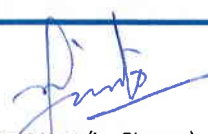
## SUBMISSION OF THE PETITIONER:



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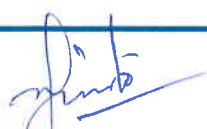
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5. The Petitioner submitted that with approval of Union of India and in exercise of the powers conferred by Clause (g) of Sub-Section 2 of Section 58, read with clause (q) of Sub-Section 2 of Section 13 of the Energy Conservation Act (52 of 2001) notified the Regulation namely "The Bureau of Energy Efficiency (Manner and interval for Conduct of Energy Audit in Electricity Distribution Companies) Regulations, 2021 (herein referred to as "Regulation") vide Notification dated 07.10.2021.
6. That owing the impact of energy auditing on the entire distribution and in absence of an existing frame work, the petitioner initiated the aforesaid regulation that distribution utilities across the nation can follow and adhere to it. The petitioner framed the Regulations on Manner and interval for Conduct of Energy Audit in Electricity Distribution Companies (DISCOMs). The Regulation framed by the petitioner provides broad framework for conduct of Annual Energy Audit and Quarterly Energy Accounting with necessary pre-requisite and reporting requirement to be met.
7. That under Section 14 ( i ) of the Energy Conservation Act,2001, the Central Government may, by notification can direct designated Consumer to get energy audit conducted by an accredited energy auditor.
8. The Petitioner submitted that the objectives of the aforesaid Regulations is to quantify and determine actual energy consumption and losses, identify areas of leakage, wastage or inefficient use to reduce Transmission and Distribution losses, facilitate the assessment of energy consumption and subsidy paid by the State Government to the DISCOMs, enable the independent third - party Energy Audit and enable the distribution utilities in undertaking the targeted efficiency improvement activities to reduce transmission and distribution losses.
9. As per the aforesaid provisions of the Regulations, the Respondent was mandatorily directed to conduct periodic energy accounting by in house energy Manager and annual energy audit by an Accredited Energy Auditor (by engaging a third-party agency). The Regulations also requires the Respondent to create a centralized energy accounting and audit cell with adequately qualified personnel.



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10. The aims of the aforesaid provisions of the Regulation are to create and establish an intervention free auditing system which would help to identify loss pockets and enable remedial measures by the Respondent with overall objective of accelerating the reduction of AT & C Losses.
11. The Petitioner to create awareness and facilitate the compliance of the Regulation by the DISCOMs, organized region wise webinars. The invitation to join these webinars to the DISCOMs was sent via email dated 15.11.2021. The time line of webinar was also shared with the Respondent.
12. The Government of India, Ministry of Power issued a letter dated 27.10.2021 to all State Government and UTs, informing the aforesaid Regulation and further informed that all the distribution companies governed under the various provisions of Electricity Act are required to have its 1<sup>st</sup> Energy Audit conducted by an 06.04.2022 and periodic energy accounting for last quarter (ending September 2021) to done by Energy Manager by 06.12.2021.
13. The Petitioner issued a letter dated 18.11.2021 informing that as per Clause 5 (g) of the Regulation, The DISCOMs shall Create a centralized energy accounting and audit cell comprising of a Nodal Officer, an Energy Manager etc. In the aforesaid letter the petitioner requested to provide the details of Energy Audit Cell in a prescribed format as mentioned in the letter itself.
14. The Petitioner vide its letter dated 09.12.2021 informed the Respondent that non-compliance of the Regulations will attract the penal provisions of the Act and further requested to submit the 1<sup>st</sup> annual Energy Audit Report and periodic Energy Accounting Reports.
15. In addition to several communication and follow up, the Petitioner vide letter dated 28.01.2022 has once again requested the Respondent to submit the First Energy Accounting Report otherwise the petitioner would initiate penal actions as per the provisions of the Energy Conservation Act, 2001.



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16. By letter dated 22.02.2022, the Petitioner again reminded that as per Regulation, the second periodic Energy Accounting Reports is to be submitted on or before 01.03.2022. The Respondent was cautioned about the non-compliance of the Regulation would attract the penal provision as per Energy Conservation Act, 2001.
17. The Petitioner vide its letter dated 04.03.2022 issued a show cause notice to the Respondent in non-compliance of the provisions of the Regulation and failure to submit First Energy Accounting Report. The Respondent was directed to submit the response explaining the reasons of non-submission of first Energy Accounting Report within seven days from the receipt of the aforesaid show cause notice or Penal action would be taken as per the provisions of Energy Conservation Act, 2001.
18. The Petitioner here admits that in response to the show cause notice dated 04.03.2022, the Respondent in its reply by letter dated 01.04.2022 requested that for engaging /hiring the accredited Energy Auditor/Agency, prior necessary approval must be obtain from the competent authority. The Respondent prayed to grant some more time to prepare and submits the data as required.
19. Again, vide letter dated 23.05.2022, the Petitioner informed the Respondent that first and second Energy Accounting Reports for Q 2 and Q 3 of FY 2020-21 has not be submitted and direction was given to submit reply and reasons for its non - compliance on or before 31.05.2022 failing which penal action would be initiated according to the provisions of Energy Conservation Act, 2001.
20. On the similar line, the Petitioner in its letter dated 23.08.2022 again requested the Respondent to comply with said Regulation.
21. Having no response from the other side, the Petitioner issued a Show Cause Notice dated 19.01.2023 in continuation to the previous notices. The Respondent was directed to submit the response explaining the reasons of non-submission of first Energy Accounting Report within seven days from the receipt of the aforesaid show cause notice or Penal action would be taken as per the provisions of Energy Conservation Act, 2001.



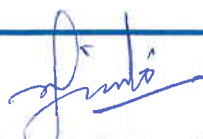
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22. The Petitioner submitted that the Respondent completely failed to comply with the directions in spite of several communication in form of letters, reminder letters and show cause notices. Due to the causal behaviour and non-compliance of the Regulation, the petitioner is forced to invoke the penalty provisions under Section 26 of the energy Conservation Act, 2001.
23. The Petitioner has filed the present petition before the Hon'ble Commission under Section 27 of the Energy Conservation Act, 2001 for adjudication of the penalty to be imposed upon the Respondent under Section 26 of the Energy Conservation Act'2001 for non-compliance of the Regulation as notified by the Petitioner and for non-compliance of the direction issued by the Union of India vide letter dated 27.10.2021, further in according to Notification vide S.O.6027 (E) dated 23.12.2022.

#### RESPONDENT S REPLY:

24. The Respondent in its reply dated 05.02.2025 contended that no copy of the present petition was served by the petitioner. The respondent took efforts to get a copy from this Hon'ble Commission on 23<sup>rd</sup> January 2025 only.
25. The Respondent in its reply raised the issue of not receiving the e-mail dated 15.11.2021 and the letter dated 27.10.2021 since it was not address to this office.
26. The Respondent after receipt of the petitioner's letter dated 18.11.2021 had initiated the process and got Energy Audit Cell created on 12.08.2022.
27. In reference to the letter dated 09.12.2021, 28.01.2022 and 22.02.2022, the Respondent submitted that letter was not received as it was not addressed to this office. For its clarification for proper communication to the Respondent, a letter dated 25.02.2022 was forwarded to the Petitioner by Chief Engineer(P), Transmission Planning & monitoring Zone, Department of power, Government of Arunachal Pradesh. The Respondent argues that in spite of the proper address communicated to the Petitioner, the Petitioner never concerns to send any correspondence in the address of the Respondent as given in the letter dated 25.02.2022.

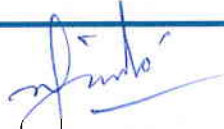


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28. In replied to the Show Cause Notice dated 04.03.2022 issued by the petitioner, the Respondent by letter dated 01.04.2022 has also raised the issue of having received the letter through the Office of Chief Engineer (P), Transmission Planning & monitoring Zone, Department of power, Government of Arunachal Pradesh. The Respondent submitted that Department of Power is a Distribution Licensee under the domain of Government of Arunachal Pradesh and prayed for some more time to obtain necessary approval from the competent authority to engage /hire the accredited energy auditor /agency department.
29. Citing reasons that since collation of data was still in process, the Respondent could not respond to the letter dated 23.05.2022 of the Petitioner.
30. The Respondent again contended that letter dated 23.08.2022 was not received by the office as it was address wrongly.
31. On the show cause notice dated 19.01.2023, the Respondent admitted of receiving it, but same was forwarded from the office of Chief Engineer (P), Transmission Planning & monitoring Zone, due to incorrect address. The Respondent submitted that the reports sought by the Petitioner were already in the final stage, consequently a separate reply to the show cause notice was not submitted, instead the respondent started submitting the required report.
32. On the front, the Respondent admits that there has been delay in furnishing the report as sought by the Petitioner. The Respondent has not deliberately ignored or failed to comply with the directions of the Petitioner. No causal approach in dealing with the matter. The delay in furnishing the data was primary due to non-readiness/availability of required data at zonal office, since it was first time collection of data from as many as 31 divisions located at different places through the State of Arunachal Pradesh.
33. The Respondent in continuation, submitted a report up to date as tabulated below:

Sl No.	Particulars	Period	Submitted by DOP,AP on	Remarks
1.	First Energy Accounting report of FY (21-22)	1 <sup>st</sup> July 2021 to 30th September 2021	22.03.2023	See annexure -4
2.	Second Energy Accounting report of FY (21-22)	1st October 2021 to 31st December 2021	22.03.2023	See annexure -4

  
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3.	Third Energy Accounting report of FY (21-22)	1 <sup>st</sup> January 2022 to 31 March 2022	22.03.2023	See annexure -4
4.	First Annual Energy Audit Report	FY 2020-21	03.10.2023	See annexure -5 submitted to REC only, without knowing had to submitted to BEE also.
5.	Second Annual Energy Audit Report.	FY 2021-22	22.03.2023	See annexure -4
6.	First Energy Accounting report of FY (22-23)	1 <sup>st</sup> April 2022 to 30 <sup>th</sup> June 2022	07.12.2023	See annexure-6
7.	Second Energy Accounting report of FY (22-23)	1 <sup>st</sup> July 2022 to 30 <sup>th</sup> September 2022	07.12.2023	See annexure-6
8.	Third Energy Accounting report of FY (22-23)	1 <sup>st</sup> October 2022 to 31 <sup>st</sup> December 2022	07.12.2023	See annexure-6
9.	Fourth Energy Accounting report of FY (22-23)	1 <sup>st</sup> January 2022 to 31 March 2023	07.12.2023	See annexure-6
10.	Annual Energy Audit Report	FY 2022-23	07.12.2023	See annexure-6
11.	First Energy Accounting report of FY (23-24)	1 <sup>st</sup> April 2023 to 30 <sup>th</sup> June 2023	05.02.2024	See annexure-7
12.	Second Energy Accounting report of FY (23-24)	1 <sup>st</sup> July 2023 to 30 <sup>th</sup> September 2023	05.02.2024	See annexure-7
13.	Third Energy Accounting report of FY (23-24)	1 <sup>st</sup> October 2023 to 31 <sup>st</sup> December 2023	13.03.2024	See annexure-8
14.	Fourth Energy Accounting report of FY (23-24)	1 <sup>st</sup> January 2024 to 31 March 2024	07.05.2024	See annexure-9
15.	Annual Energy Audit Report	FY 2023-24	19.08.2024	See annexure-10
16.	First Energy Accounting report of FY (24-25)	1 <sup>st</sup> April 2024 to 30 <sup>th</sup> June 2024	30.08.2024	See annexure-11
17.	Second Energy Accounting report of FY (24-25)	1 <sup>st</sup> July to 2024 to 30 <sup>th</sup> September 2024.	14.11.2024	See annexure-12
18.	Third Energy Accounting report of FY (24-25)	1 <sup>st</sup> October 2024 to 31 <sup>st</sup> December 2024		In process

34. The Respondent is committed to furnish the reports regularly and in time, therefore prayed that the Hon'ble Commission to have a sympathetic consideration and not to impose the penalty.

#### REJOINDER OF THE PETITIONER:

35. The Petitioner on dated 05.03.2025 has filed Rejoinder to the Respondent Reply. In its submission, the Petitioner stated that the reply filed by the Respondent is based on



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malaise presumption, fabrications and concealment of materials facts and is wholly untenable.

36. The Petitioner submitted that e-mail dated 15.11.2021 was not received by the Respondent due to incorrect address is frivolous and misleading. The e-mail was duly forwarded on the official address of the respondent e-mail id, vidyutarunachal@rediffmail.com about the awareness webinars for distribution Licensee. However, despite receiving the said e-mail, Respondent had not complied with the Regulation and caused delay in submission of periodic Energy Accounting Report and Annual Energy Audit Report to the Petitioner.
37. The Respondent cannot claim non-receipt of the several letters as it was addressed to all the Electricity Distribution Companies which includes the Respondent also. The Respondent has deliberately failed to comply with the time line prescribed in the said letter and now trying to evade its liability by claiming fault on the part of the Petitioner. The Respondent cannot acknowledge the receipt of one letter and deny the other when in fact all the letter were sent to the same address.
38. The Petitioner submitted that Respondent has admitted to the delay in compliance of the Regulation and the request for extension of timeline made by the Respondent vide its reply to the show Cause notice dated 04.03.2022 could not be accepted as the Act do not grant any power to the Petitioner to extend the timelines in submission of the reports as specified in the Regulation and the provision of the same must be interpreted strictly.
39. The Petitioner further submitted that mere initiation of the report submission process does not equate to compliance, especially when no formal response to the show cause notice dated 19.01.2023 was submitted, reflecting a blatant disregard for regulatory directives. The Respondent's failure to provide a separate reply substantiating their reasons for non-compliance underscore their negligence, warranting appropriate action as per the applicable legal provisions.
40. The Petitioner to get more clarity, submitted a compliance status table of the Periodic Energy Accounting Reports and Annual Energy Audit Reports by the Energy Manager of the Respondent which is as:

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Financial Year (F Y)	Compliance	Due date of submission	Date of Receipt of Report.
2021-2022	Quarter 2 (1 <sup>st</sup> July 2021-30 <sup>th</sup> September 2021)	06 <sup>th</sup> December 2021	22 <sup>nd</sup> March 2023
2021-2022	Quarter 3 (1 <sup>st</sup> October 2021-31 <sup>st</sup> December 2021)	1 <sup>st</sup> March 2022	22 <sup>nd</sup> March 2023
2021-2022	Quarter 4 (1 <sup>st</sup> January 2022-31 <sup>st</sup> March 2022)	30 <sup>th</sup> May 2022	22 <sup>nd</sup> March 2023
2022-2023	Quarter 1 (1 <sup>st</sup> April 2022-30 <sup>th</sup> June 2022)	30 <sup>th</sup> August 2022	07 <sup>th</sup> December 2023
2022-2023	* Quarter 2 (1 <sup>st</sup> July 2022-30 <sup>th</sup> September 2022)	29 <sup>th</sup> November 2022	07 <sup>th</sup> December 2023
2022-2023	* Quarter 3 (1 <sup>st</sup> October 2022-31 <sup>st</sup> December 2022)	01 <sup>st</sup> March 2023	07 <sup>th</sup> December 2023
2022-2023	* Quarter 4 (1 <sup>st</sup> January 2023-31 <sup>st</sup> March 2023)	30 <sup>th</sup> May 2023	07 <sup>th</sup> December 2023
2023-2024	* Quarter 1 (1 <sup>st</sup> April 2023-30 <sup>th</sup> June 2023)	14 <sup>th</sup> August 2023	05 <sup>th</sup> February 2024
2023-2024	* Quarter 2 (1 <sup>st</sup> July 2023-30 <sup>th</sup> September 2023)	14 <sup>th</sup> November 2023	05 <sup>th</sup> February 2024
2023-2024	* Quarter 3 (1 <sup>st</sup> October 2023-31 <sup>st</sup> December 2023)	14 <sup>th</sup> February 2024	09 <sup>th</sup> February 2024
2023-2024	* Quarter 4 (1 <sup>st</sup> January 2024-31 <sup>st</sup> March 2024)	15 <sup>th</sup> May 2024	08 <sup>th</sup> May 2024
2024-2025	* Quarter 1 (1 <sup>st</sup> April 2024-30 <sup>th</sup> June 2024)	14 <sup>th</sup> August 2024	30 <sup>th</sup> August 2024
2024-2025	* Quarter 2 (1 <sup>st</sup> July 2024-30 <sup>th</sup> September 2024)	14 <sup>th</sup> November 2024	14 <sup>th</sup> November 2024
2024-2025	* Quarter 3 (1 <sup>st</sup> October 2024-31 <sup>st</sup> December 2024)	14 <sup>th</sup> February 2025	11 <sup>th</sup> February 2025
2020-2021	Annual report 2020-21	06 <sup>th</sup> April 2022	05 <sup>th</sup> October 2023
2021-2022	Annual report 2021-22	31 <sup>st</sup> July 2022	22 <sup>nd</sup> March 2023
2022-2023	Annual report 2022-23	31 <sup>st</sup> July 2023	07 <sup>th</sup> December 2023
2023-2024	Annual Report 2023-24	31 <sup>st</sup> July 2024	19 <sup>th</sup> August 2024

[\* rectified clerical mistake in the rejoinder of the petitioner.]

41. In addition, the Petitioner also submitted a table showing the maximum applicable penalty of the Respondent under Section 26 of the Act, 2001 which is as:

Financial Year (F Y)	Compliance	Days of delay	Penalty (max) (in ₹)	Additional penalty @ (₹ 10000/day)	Total (in ₹)
2021-2022	Quarter 2	471 days	10,00,000/-	47,10,000/-	57,10,000/-
2021-2022	Quarter 3	386 days	10,00,000/-	38,60,000/-	48,60,000/-
2021-2022	Quarter 4	296 days	10,00,000/-	29,60,000/-	39,60,000/-
2022-2023	Quarter 1	464 days	10,00,000/-	46,40,000/-	56,40,000/-

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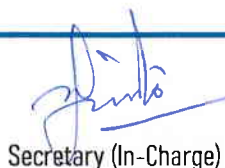
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2022-2023	Quarter 2	373 days	10,00,000/-	37,30,000/-	47,30,000/-
2022-2023	Quarter 3	281 days	10,00,000/-	28,10,000/-	38,10,000/-
2022-2023	Quarter 4	191 days	10,00,000/-	19,10,000/-	29,10,000/-
2023-2024	Quarter 1	175 days	10,00,000/-	17,50,000/-	27,50,000/-
2023-2024	Quarter 2	83 days	10,00,000/-	8,30,000/-	18,30,000/-
2023-2024	Quarter 3	No delay	10,00,000/-	--	--
2023-2024	Quarter 4	No delay	10,00,000/-	--	--
2024-2025	Quarter 1	16 days	10,00,000/-	1,60,000/-	11,60,000/-
2024-2025	Quarter 2	No delay	10,00,000/-	--	--
2024-2025	Quarter 3	No delay	10,00,000/-	--	--
2020-2021	Annual Report 2020-21	547 days	10,00,000/-	54,70,000/-	64,70,000/-
2021-2022	Annual report 2021-22	234 days	10,00,000/-	23,40,000/-	33,40,000/-
2022-2023	Annual Report 2022-23	129 days	10,00,000/-	12,90,000/-	22,90,000/-
2023-2024	Annual Report 2023-24	19 days	10,00,000/-	1,90,000/-	11,90,000/-
Total= Rupees five crore six lakh fifty thousand only.					5,06,50,000/-

42. The Petitioner submitted that Regulations, 2021 applies equally to all the DISCOMs of India and compliance of timelines under the Regulation is mandatory and compulsory. No exemption in any circumstances can be granted. The letter circulated to all DISCOMs clearly stated the timelines for submission of the reports, the Respondent failed to abide by the timelines by stating various baseless justifications without even placing any document on record to sustain such excuses.

#### FINAL HEARING ON 28.05.2025:

43. This instant adjudication petition filed on 02.03.2023 could not be proceed further due to non-appointment of adjudication Officer in the Commission. After much delay, the matter was finally heard on 28.05.2025.
44. Advocate, Kartikey Nayyar Learned counsel for the Petitioner, represented the matter through virtual hearing.
45. Er. Duyu Tacho, Chief Engineer, (P) (Comm), Department of Power, Government of Arunachal Pradesh appeared on behalf of the Respondent.
46. Ld. Counsel for the Petitioner submitted that due to the non-compliance and causal behaviour of the respondent in submitting the mandatory Annual Energy Audit Report and



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Periodic Energy Accounting Report the Petitioner is forced to invoke the penalty provision under the Section 26 of the Energy Conservation Act, 2001. The required report must be submitted in the prescribed timeline, no power lies on the petitioner authority to condoned the delay of the submission of report by the Respondent.

47. The Petitioner fairly admits that as of now the Respondent authority has been duly complying as per Regulation and submitting all the requisite reports under the time line.
48. During the hearing, certain queries came up in regard to the Notification dated 6<sup>th</sup> October, 2021, whereby the petitioner, BEE notified Regulations, namely "The Bureau of Energy Efficiency (Manner and interval for Conduct of Energy Audit in Electricity Distribution Companies) Regulations, 2021". That under Section 58 (1) of the Energy Conservation Act' 2001, the BEE has to have pervious approval of the Central Government and subject to the condition of the previous publication, by notification. The documents available before us is of only the Notification dated 23<sup>rd</sup> December, 2022 published by the Ministry of power, Government of India.
49. The Petitioner assures to provide any available documents of the pervious approval by the Central Government as mandate under Section 58 (1) of the Act within seven days.
50. The Respondent on the other hand admits of delay in compliance to submit the necessary Annual Energy Audit Report and Periodic Energy Accounting Report in specified time line. The Respondent contended that all the letter communicated by the Petitioner was not address properly and the same was not received in the office or was received late from another division of the department. For its clarification for proper communication to the Respondent, a letter dated 25.02.2022 was forwarded to the Petitioner by Chief Engineer(P), Transmission Planning & monitoring Zone, Department of power, Government of Arunachal Pradesh giving the proper address of the Respondent. The Respondent in letter dated 1<sup>st</sup> April 2022 address to the Petitioner, placed grievances that letter is received through Chief Engineer (Power) TP&MZ office only. In spite giving proper address, the Petitioner never corrected the address and still all correspondence were made on the wrong address. The Respondent further submitted that Petitioner in letter dated 23<sup>rd</sup> May



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2022 had addressed Sh. Anang Perme, who was Chief Engineer, Transmission, Planning & Monitoring Zone, Department of Power had opted for voluntary retirement in the year 2019 itself.

51. The Respondent submitted that since it was first time collection of data as the required data was not available, it took considerable amount of time to collect data. There was no any sort of causal approach or deliberately attempt to ignore the directions of the Petitioner.
52. The Respondent contended that as of today the required reports is duly being submitted on the timely manner to the Petitioner and further humbly asked for mercy and to have sympathetic consideration and prayed not to imposed any penalty as it was first time compliance of the said Regulation.

**OBSERVATION AND FINDINGS OF ADJUDICATION OFFICER:**

53. Having carefully considered the submissions of the Petitioner as well as the Respondent. Also perused the written contentions of the parties in form of petition, affidavit in reply, rejoinders and supported documents relied upon by the parties.
54. This petition has been filed under Section 27 of the Energy Conservation Act, 2001 for adjudication of the penalty under Section 26 of the Energy Conservation Act, 2001 and directions to the Respondent to make payment of penalty as adjudicated by Adjudication Officer
55. In the context to penalty, it would be appropriate to refer Section 26 (1) of the Energy Conservation Act, 2001, which reads as under:

**"26. Penalty.** — (1) If any person fails to comply with the provisions of clause (h) or clause (i) or clause (k) or clause (l) of section 14 or clause (c) or clause (h) of section 15, he shall be liable to a penalty which shall not exceed ten lakh rupees:

Provided that in the case of continuing failures, the person shall be liable to an additional penalty which may extend to ten thousand rupees for every day during which such failures continue."

56. The powers vested with the State Commission under Section 27 of the Energy Conservation Act, 2001, which reads as under:

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**"27. Power to adjudicate.** —(1) For the purpose of adjudging under section 26, the State Commission shall appoint any of its members to be an adjudicating officer for holding an inquiry in such manner as may be prescribed by the Central Government, after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry, and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the clauses of the sections specified in section 26, he may impose such penalty as he thinks fit in accordance with the provisions of any of those clauses of that section:

Provided that where a State Commission has not been established in a State, the Government of that State shall appoint any of its officer not below the rank equivalent to a Secretary dealing with legal affairs in that State to be an adjudicating officer for the purposes of this section and such officer shall cease to be an adjudicating officer immediately on the appointment of an adjudicating officer by the State Commission on its establishment in that State:

Provided further that where an adjudicating officer appointed by a State Government ceased to be an adjudicating officer, he shall transfer to the adjudicating officer appointed by the State Commission all matters being adjudicated by him and thereafter the adjudicating officer appointed by the State Commission shall adjudicate the penalties on such matters. "

57. The primary objective of BEE is to reduce energy intensity in the Indian economy. In order to translate the objectives into result-oriented action the broad strategies of BEE include: To coordinate policies and programmes on efficient use of energy and its conservation with the involvement of stakeholders. Its emphasis to achieve and maintain optimum energy procurement and utilisation, to minimise energy costs / waste without affecting production & quality and to minimise environmental effects.
58. It is pertinent to note that the Central Government vested with powers conferred under Section 14 of the Energy Conservation act, 2001 to enforce efficient use of energy and its conservation. The provisions and specified clauses (h), (l), (k) and (l) of Section 14 of the Energy Conservation Act 2001 is reproduced which is as:

**"14. Power of Central Government to enforce efficient use of energy and its conservation.** - The Central Government may, by notification, in consultant with the Bureau, -

(h) direct, having regard to quantity of energy consumed or the norms and standards of energy consumption specified under clause (a), the Energy Intensive Industries 5 [and other establishments] specified in the Schedule to get energy audit conducted by an accredited energy auditor in such manner and intervals of time as may be specified by regulations;

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- (i) direct, if considered necessary for efficient use of energy and its conservation, any designated consumer to get energy audit conducted by an accredited energy auditor;
- (k) direct any designated consumer to furnish to the designated agency, in such form and manner and within such period, as may be prescribed, the information with regard to the energy consumed and action taken on the recommendation of the accredited energy auditor;
- (l) direct any designated consumer to designate or appoint [energy auditor or energy manager] in charge of activities for efficient use of energy and its conservation and submit a report, in the form and manner as may be prescribed, on the status of energy consumption at the end of every financial year to the designated agency;".

59. The Petitioner in exercise of the powers conferred by Sub-Section (1) and Clause (g) of Sub-Section (2) of Section 58, read with Clause (q) of Sub-Section 2 of Section 13 of the Energy Conservation Act, 2001 (52 of 2001) notified the Regulation namely "The Bureau of Energy Efficiency (Manner and interval for Conduct of Energy Audit in Electricity Distribution Companies) Regulations, 2021. The provisions of Sub-Section (1) and Clause (g) of Sub-Section (2) of Section 58 of the Energy Conservation Act, 2001 which reads as:

**"58. Power of Bureau to make regulations.** – (1) The Bureau may, with the previous approval of the Central Government and subject to the condition of the previous publication, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to carry out the purpose of this Act.

(2) in particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matter, namely


(g) the manner and the intervals of time in which the energy audit shall be conducted under clause (q) of the Sub-Section (2) of Section 13;"

60. Also going through the Sub-Section 1 and Clause (q) of Sub-Section 2 of Section 13 of Energy Conservation Act, 2001. Which reads as:

**"13. Power and functions of Bureau.** – (1) the Bureau shall, effectively co-ordinate with designated consumer, designated agencies and other agencies, recognise and utilise the existing resources and infrastructure, in performing the functions assigned to it by or under this Act.

(2) the Bureau may perform such functions and exercise such powers as may be assigned to it by or under this Act and in particular, such functions and powers include the functions and power to-

(q) specify, by regulations, the manner and intervals of time in which the energy audit shall be conducted;

  
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61. From the plain readings of these provisions of the Act, the Petitioner, herein this case, The Bureau of Energy Efficiency being vested with the power to make Regulation with previous approval of the Central Government and subject to the condition of previous publication, by notification being defined under Section 58 of the Energy Conservation Act'2001.
62. The Petitioner having powers to do so, notified Regulations vide Gazette Notification dated 6<sup>th</sup> October,2021 "The Bureau of Energy Efficiency (Manner and interval for Conduct of Energy Audit in Electricity Distribution Companies) Regulations, 2021. Under these Regulation, specified timeline was prescribed for conduct of Annual Energy Audit and Periodic Energy Accounting. Clause 3 and 4 of the said Regulations which reads as:

**"3. Intervals of time for conduct of annual energy audit.** - (1) Every electricity distribution company shall conduct an annual energy audit for every financial year and submit the annual energy audit report to the Bureau and respective State Designated Agency and also made available on the website of the electricity distribution company within a period of four months from the expiry of the relevant financial year.


Provided that on the commencement of these regulations, the first annual energy audit of every electricity distribution company shall be conducted within six months from the date of such commencement, by taking into account the energy accounting of electricity distribution company for the financial year immediately preceding the date of the commencement of these regulations

(2) Where a new electricity distribution company is established after the commencement of these regulations, such electricity distribution company shall conduct its first annual energy audit on completion of the first financial year from the date of being notified as designated consumer.

Explanation. — If any entity created as a result of merger, demerger, slump sale, acquisition, change of control or any other corporate restructuring of, or involving, any existing electricity distribution company, such entity shall not be considered as a new electricity distribution company for the purposes of this sub regulation.

**4. Intervals of time for conduct of periodic energy accounting.** - (1) Every electricity distribution company shall —

- (a) ensure that all feeder wise, circle wise and division wise periodic energy accounting shall be conducted by the energy manager of the electricity distribution company for each quarter of the financial year, and
- (b) submit the periodic energy accounting report to the Bureau and respective State Designated Agency and also made available on the website of electricity distribution company within forty-five days from the date of the periodic energy accounting.

  
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- (2) After the commencement of these regulations, every electricity distribution company shall, notwithstanding anything in sub-regulation (1), –
- (a) conduct its first periodic energy accounting, for the last quarter of the financial year immediately preceding the date of such commencement; and
- (b) conduct its subsequent periodic energy accounting for each quarter of the financial year for a period of two financial years from the date of such commencement, and submit the periodic energy accounting report within sixty days from the date of periodic energy accounting.

63. The Petitioner has mentioned relevant timeline for compliance of the Regulation by the Respondent, which has been shown below:

Report	Whom to be submitted	Type of report/audit	Period	Due date for submission.
Periodic Energy Accounting by Energy manager (EM)	Bureau of Energy Efficiency and State Designated Agency	First periodic energy accounting (Quarter-II)	01.07.2012 to 30.09.2012	06.12.2021
		Subsequent periodic energy accounting (Quarter-III)	01.10.2021 to 31.12.2021	01.03.2022
		Subsequent periodic energy accounting (Quarter-IV)	01.01.2022 to 31.03.2022	30.05.2022
Annual Energy Audit by an Accredited Energy Auditor (AEA)	Bureau of Energy Efficiency and State Designated Agency	First annual energy audit	FY 2020-21	06.04.2022
		Subsequent Annual Energy Audit.	FY 2021-22	31.07.2022

64. Also carefully considering the Notification dated 23<sup>rd</sup> December, 2022, being notified by Ministry of Power, where direction was issued to all Distribution Companies to designate or appoint energy manager and accredited energy auditor and get periodic energy accounting conducted by the appointed energy manager and annual energy audit conducted by the appointed accredited energy auditor and furnish reports to the State Designated Agency and Bureau. The Notification dated 23<sup>rd</sup> December, 2022, which reads as:

“  
MINISTRY OF POWER  
NOTIFICATION

  
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New Delhi, the 23rd December, 2022 S.O. 6027(E).—In exercise of the power conferred by clauses (i), (k) and (l) of sections 14, 26 and 52 of the Energy Conservation Act, 2001 (52 of 2001), the Central Government, in consultation with the Bureau of Energy Efficiency (BEE) hereby direct: (a) that every Electricity Distribution Company shall designate or appoint energy manager and accredited energy auditor and get periodic energy accounting conducted by the appointed energy manager and annual energy audit conducted by the appointed accredited energy auditor and furnish reports to the State Designated Agency (SDA) and Bureau in accordance with the Bureau of Energy Efficiency (Manner and Intervals for Conduct of Energy Audit in electricity distribution companies) Regulations, 2021 published vide notification No. 18/1/BEE/DISCOM/2021, dated the 7th October, 2021; as amended from time to time.

(b) that in case of non-compliance of these directions or and non-submission of periodic energy accounting reports or annual energy audit reports or such other reports as required, submission of incorrect data or misrepresentation of facts, the State Designated Agency or Bureau or any person as designated by the Central Government shall file petition for non-compliance to the respective State Electricity Regulatory Commission or Joint Electricity Regulatory Commission.

[F. No. 10/03/2022-EC]

AJAY TEWARI, Addl. Secy."

65. The Petitioner being allowed to furnish documents regarding the pervious approval by the Central Government and previous publication, by notification in regard to the Regulations dated 6<sup>th</sup> October, 2021, namely "The Bureau of Energy Efficiency (Manner and interval for Conduct of Energy Audit in Electricity Distribution Companies) Regulations, 2021 as mandated under Section 58 (1) of the Act within seven days. The document so submitted by the Ld. counsel for the Petitioner on dated 03.06.2025 through mail of the Commission seem bit unsatisfactorily as it pertains to the Minutes of Meeting held on 10<sup>th</sup> August, 2020 under the chairpersonship of Hon'ble Minister of State (I/c) for Power & NRE and official Note Sheet in lieu for approval of draft Regulations before the Hon'ble Minister. The documents submitted cannot be considered as the pervious approval by the Central Government as mandates under Section 58 (1) of the Act.
66. Thus, it is inferred that from the date of Notification by the Ministry of Power i.e. 23<sup>rd</sup> December, 2022 all DISCOMs including the respondent have come under the purview of the aforesaid Regulation, 2021.

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67. Even if, taking in account the notification dated 23<sup>rd</sup> December,2022, the Respondent still failed to conduct periodic energy accounting and annual energy audit and submits its reports in accordance with the Regulations,2021 which implies violation of its legal obligation. The delay and the maximum penalty taken into account after the notification dated 23<sup>rd</sup> December,2022 could be sum up and shown as in the below table:

Financial year (FY)	Compliance	Days of delay	Penalty (Max) (in ₹)	Additional penalty @ (₹ 10000/day)	Total (in ₹)
2022-2023	Quarter 3	281 days	10,00,000/-	28,10,000/-	38,10,000/-
2022-2023	Quarter 4	191 days	10,00,000/-	19,10,000/-	29,10,000/-
2023-2024	Quarter 1	175 days	10,00,000/-	17,50,000/-	27,50,000/-
2023-2024	Quarter 2	83 days	10,00,000/-	8,30,000/-	18,30,000/-
2024-2025	Quarter 1	16 days	10,00,000/-	1,60,000/-	11,60,000/-
2023-2024	Annual Report 2023-24	19 days	10,00,000/-	1,90,000/-	11,90,000/-
Total= Rupees One Crore Thirty Six lakhs Fifty Thousand only					1,36,50,000/-

68. Before any decision to impose the penal provisions, we have to seriously consider the contentions as raised by the Respondent. In its written reply and on oral submission the Respondent have stated that as of the wrong address in those e-mails, letter and show cause notices communicated by the petitioner either it has not received or received it very late through another establishment.
69. After carefully reading the letter dated 25<sup>th</sup> February 2022 being a communication to the petitioner by Chief Engineer(P), Transmission Planning & monitoring Zone, Department of power, Government of Arunachal Pradesh giving the proper address of the respondent and also from the contents of the letter dated 1<sup>st</sup> April 2022, the Petitioner had lapses on their part and failed to rectifying the correct address of the Respondent and kept sending on letter and other form of correspondence in the same and wrong address. Also taken note of the letter dated 23.05.2022, where the petitioner has addressed Sh. Anang Perme, who

was Chief Engineer, Transmission, Planning & Monitoring Zone, Department of Power had opted for voluntary retirement in the year 2019 itself.

70. It is settled precedent in various judicial decisions that a proper communication is crucial for valid legal proceeding. The Petitioner in this instant case has failed to correct the Respondent's address even after it was communicated by the letter dated 25.02.2022 and 23.05.2022.
71. The respondent being a deemed DISCOM, wholly under the domain and control of the Government of Arunachal Pradesh and since it was for the first time, the Respondent had collected data from all its divisions, we also need to accept the ground difficulties faced due to shortage of man power, hard terrain and lack of expertise in collation of data.
72. But on the other hand, Statutory and regulatory compliance refers to the Act, Rules, Regulations and standards entity are legally obligated to follow and ensure that they operate lawfully and ethically. These requirements are imposed by governments, or other regulatory agencies. Implementing effective compliance can help to meet their legal obligations, minimize risk, and ensure ethical conduct. All entity, regardless of their difficulties and other official compulsion, must ensure compliance with statutory and regulatory requirements. Compliance helps avoid legal and financial penalties, reputational damage.
73. The Respondent cannot shy away from their responsibility on the defence of non-receipt of letters communicated by the Petitioner, man power shortage, hard terrain. Being the lone government owned and controlled distribution licensee, the Respondent must place paramount importance in complying to provisions of the Act, its Rules and Regulations notified time to time. Here the Respondent is under statutory obligations to mandatorily conduct periodic energy accounting and annual energy audit and submit its reports in accordance with the Regulations, 2021.
74. We appreciate the Petitioner for its effort to ensure timely conduct of periodic energy accounting and annual energy audit by the DISCOMs including the Respondent and to submit its reports in accordance with the Regulations, 2021. We see that State of

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Arunachal Pradesh is also in its transition and the consumption of the electricity is also increasing day by day. The purpose of these reports, shall be steps in optimizing energy uses, reducing costs and minimizing environmental impact which would directly enhance the performance of the DISCOMs thereby reducing the tariff burden on consumers arising out of inefficiencies and high energy losses.


75. Since, as admitted that Respondent is now complying and submitting its reports on timely basis, I considered a lenient view for this time only in penalizing the Respondent.

### ORDER

76. The Respondent, Department of Power, Arunachal Pradesh is hereby imposed a notional penalty of Rs 1,00,000/- [Rupees one lakh] only for the above non-compliance as depicted in table of para 67 of the Order.
77. It is made clear that, further non-compliance to the provision of the "Bureau of Energy Efficiency (Manner and interval for Conduct of Energy Audit in Electricity Distribution Companies) Regulations, 2021, the Respondent shall be held accountable and be liable to maximum penalty.
78. It is hereby directed that The Respondent, Department of Power, Arunachal Pradesh to pay a penalty of Rs 1,00,000/- [Rupees one lakh] only which shall be payable to Petitioner, BEE within three months from the date of this Order. In event of default to pay the penalty in stipulated time, an additional interest @ 9 % per annum be applicable to the delayed payment.
79. As of its paramount importance, the Commission waives of the petition fee as applicable to the Petitioner.
80. In view of the above direction and order, this petition is disposed of.

Sd/-  
( Nich Rika )

Adjudicating Officer cum Member ( Law )

  
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