

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
(Appellate Jurisdiction)**

**APPEAL NO.793 OF 2023**

**Dated: 12<sup>th</sup> March, 2024**

**Present: Hon'ble Mr. Justice Ramesh Ranganathan, Chairperson  
Hon'ble Smt. Seema Gupta, Technical Member (Electricity)**

**In the matter of:**

**M/S SHREE CEMENTS LIMITED**

*Through its Joint Vice President*

SB – 187, 4<sup>th</sup> Floor,

Opp. Rajasthan University,

J.L.N. Marg, Bapu Nagar,

Jaipur – 302015.

... Appellant(s)

**VERSUS**

**1. RAJASTHAN ELECTRICITY REGULATORY COMMISSION**

*Through its Secretary,*

Vidhyut Viniyamak Bhawan,

Sahakar Marg,

Jaipur - 302001

... Respondent No.1

**2. JAIPUR VIDYUT VITRAN NIGAM LIMITED**

*Through its Chairman & Managing Director,*

Vidyut Bhawan, Jyoti Nagar,

Jaipur – 302005.

... Respondent No.2

**3. AJMER VIDYUT VITRAN NIGAM LIMITED,**

*Through its Chairman & Managing Director*

Vidyut Bhawan, Panchsheel Nagar

Makarwali Road,

Ajmer – 305004.

... Respondent No.3

**4. JODHPUR VIDYUT VITRAN NIGAM LIMITED,**

*Through its Chairman & Managing Director,*

New Power House, Industrial Area,

Jodhpur – 342003.

... Respondent No.4

**Counsel on record for the Appellant(s):**

**Anand K. Ganesan**

**Swapna Seshadri**

**Kriti Soni**

**Aishwarya Subramani**

**Ritu Apurva  
Amal Nair  
Utkarsh Singh**

**Counsel on record for the Respondent(s):**

**Zoheb Hossain for R.1  
Archana Pathak Dave  
Avinash Dave  
Sandeep Pathak for R.2,3& 4**

## **JUDGMENT**

**(PER HON'BLE MRS. SEEMA GUPTA, TECHNICAL MEMBER)**

1. The Appellant has preferred the instant appeal assailing the order dated 01.09.2022 passed by the Rajasthan Electricity Regulatory Commission ("**Respondent No 1**" / "**State Commission**") in Petition No. 2024/2022, ("**impugned order**"), whereby the State Commission allowed the recovery of Additional Power Purchase Cost incurred by the Respondent Discoms in compliance with the order of the Hon'ble Supreme Court in the matter of change in law (pertaining to period from May 2013 to January 2018), through special Fuel Surcharge Adjustment (FSA) calculated on the basis of consumption of all categories of consumers in the last quarter of FY 2021-2022. As per the impugned order, the State Commission allowed the Respondent DISCOMs to recover an amount of Rs 7438.58 Crore (Rs 5996.40 Crore Principal amount and Rs 1442.18 Crore interest component) in 30/60 equal monthly instalments from the consumers.

2. The Appellant, M/s Shree Cements Ltd., is a public limited company engaged in the manufacture of cement at various plants located in the State of Rajasthan. The Appellant also owns captive power plants at Beawar and Ras for consumption by its own cement units at Khushkhera, Suratgarh and Jobner. The Appellant is a consumer of Respondents No. 2 & 4 herein.

3. The Respondent No. 1, Rajasthan Electricity Regulatory Commission is the State Electricity Regulatory Commission for the State of Rajasthan exercising powers and discharging functions under the provisions of the Electricity Act, 2003 (for short “the Act”).

4. The Respondent No. 2, Jaipur Vidyut Vitran Nigam Limited, Respondent No. 3, Ajmer Vidyut Vitran Nigam Limited and Respondent No. 4, Jodhpur Vidyut Vitran Nigam Limited are engaged in the business of distribution and supply of electricity in the area of supply mentioned in their respective licenses in the State of Rajasthan.

5. Various disputes had arisen in relation to Change in Law claims (for the period May 2013 to January 2018) between the Distribution Licensees and M/s Adani Power Rajasthan Limited (“APRL”) under the Power Purchase Agreement dated 28.01.2010 entered into between the said parties for purchase of power from 1320 (2x660) MW generating station of APRL located at Kawai, Baran district, in the State of Rajasthan. The said disputes were adjudicated by the Hon’ble Supreme Court in Civil Appeal No. 10188/2018, which passed an interim order, dated 29.10.2018, directing the Discoms to pay compensation due to change in law event to the extent of 50% of the claims of APRL, subject to the final adjudication of the disputes. The Rajasthan Discoms, in compliance with the order of the Hon’ble Supreme Court, paid the amount to APRL. The Discoms in order to recover the amount paid to APRL, approached the State Commission in Petition no. 1464 of 2019 requesting the State Commission to approve a special FSA (“Fuel Surcharge Adjustment”) for the recovery of the said amount. The State

Commission, vide its order dated 13.06.2019, approved the recovery of Rs 2709.36 Crore (Principle of Rs 2288.40 Crore and interest component of Rs 420.96 Crore) on this account through a Fuel Surcharge Adjustment (FSA) of Rs .05/kwh to be levied for a period of 36 months on the consumers based on their energy consumption in Quarter 1 of 2018-19.

6. The Hon'ble Supreme Court had finally adjudicated the dispute relating to Change in law vide its order dated 25.02.2022 and directed the Respondent Discoms to pay the remaining amount to APRL, in compliance of which, the said amount was paid by them to APRL in the month of March 2022.

7. Pursuant to the above, the Respondent Discoms filed a Petition No. 2024/2022 before the State Commission seeking approval of the Special Fuel Surcharge to be levied on the consumers for recovery of the above amounts paid to M/s APRL. The State Commission vide its Order, dated 01.09.2022, ("the impugned order") allowed the Respondent Discoms to recover an amount of Rs. 7438.58 Crores (5996.40 Crore principal amount & 1442.18 Crore interest component), as FSA at the rate of Rs. 0.14/ unit from the consumers being billed on bimonthly basis in 30 equal instalments and at the rate of Rs. 0.07/ unit from the consumers being billed on monthly basis in 60 equal instalments. The quantum of electricity on which this levy of FSA was to be recoverable was determined on the basis of the consumption of electricity by consumers in Quarter 4 of FY 2021-22.

8. The Appellant is stated to be aggrieved by the methodology adopted by the State Commission for recovery of the amount by considering energy consumption pertaining to only one quarter that too Quarter 4 of FY 2021-2022, when its consumption was unusually high due to some issues with its captive plant, whereas recovery of the amount pertains to almost 5 years from May 2013-January 2018. According to the Appellant, the impugned order was passed without any notice to any affected person or stakeholder, apart from the respondent Distribution Licensees. The Appellant became aware of such levy upon receipt of the bills for the month of September 2022, which were raised on the basis of the impugned order. Thereafter, the Appellant approached the State Commission by Petition No. 2092/2023 seeking review, clarification and removal of difficulty with respect to levy of special FSA in terms of Impugned order. However, the State commission dismissed the said Petition filed by the Appellant vide its order dated 03.07.2023. Aggrieved thereby, the Appellant has approached this Tribunal praying for the following reliefs:

*“i. Allow the appeal and set aside the order dated 01.09.2022 passed by the State Commission in Petition No. 2024 of 2022 to the extent challenged in the present appeal; and*

*ii. Pass such other Order(s) and this Hon’ble Tribunal may deem just and proper.”*

9. Learned counsel for the Appellant contended that the State Commission has calculated the Special Fuel Surcharge Adjustment by taking into account the consumption of all consumer categories from January-March 2022 i.e., Quarter 4 of FY 2021-22 without any basis and without issuing any notice to either affected persons or stake-holders

including the Appellant. It is further contended that during that period the Appellant's consumption was substantially higher than the previous quarter, therefore substantial prejudice was caused to the Appellant.

10. The Appellant submitted that the reliance placed on Regulation 88 of the RERC Tariff Regulations 2019 for selection of said quarter is misconceived as it deals with quarterly fuel surcharge adjustment, which is based on the cost of previous quarter. The levy under Regulation 88 is for variation in fuel cost for a quarter, levied for only one quarter and to be included in the Tariff of that quarter, and thus, Regulation 88 has no application to the present case. It is further contended that had the State commission considered the consumption between May 2013 to January 2018 of all the consumers who have consumed power during the relevant period, then the Appellant would not have to bear the burden of the consumers who are no longer consumers of the Discoms/have reduced their consumption from the DISCOMs in the Quarter 4 of FY 2021-22.

11. The Appellant also rebuts the argument that same procedure was followed in the previous order of State Commission dated 13.06.2019 and that since the Appellant has not objected at the relevant time he has lost its legal right to raise such objection now. He strongly puts forth that the same procedure was not followed in the present case, and if the State commission adopts the said procedure, which was adopted in its order dated 13.06.2019, the Appellant will have no objection. The Appellant being a consumer of Respondent Nos. 2 & 4 is severally prejudiced by the methodology adopted by the Respondent commission in considering only one quarter of energy consumption of various customers, that too arbitrarily picking Quarter 4 of FY 2021-22 for the recovery of amount paid by

Respondent Discoms to APRL through special FSA, therefore, the impugned order needs to be set aside.

12. Per Contra, learned Counsel for the Respondents submitted that Regulation 88 of RERC Tariff Regulations, (2014 or 2019) enables the Discoms to recover uncontrollable variations in the approved and actual variable cost of power purchased and allows passing through of the same to the consumers on the quarterly basis as Fuel Surcharge Adjustment (FSA). The judgment of the Hon'ble Supreme Court was delivered in February 2022, whereas the amount was paid (bill paid) to APRL in March 2022 by Discoms; the FSA was computed on the consumption of Quarter 4 of FY 2021-22 (January 2022–March 2022) for all categories of consumers as per the provisions of Regulations 88 of the RERC (Terms and Conditions for Determination of Tariff) Regulations, 2019.

13. The Respondents further submitted that earlier also the first quarter of FY 2018-2019(April 2018–June 2018) was taken to compute the FSA as per the provisions of Regulations 88 of the RERC (Terms and Conditions for Determination of Tariff) Regulations, 2014. Note (v) of Regulations 88 of the RERC (Terms and Conditions for Determination of Tariff) Regulations, 2019 and 2014 both iterate that, the cost and quantum of power purchase shall be based on bills paid/credits received during the previous quarter irrespective of period to which it pertains and shall include arrears or refunds, if any, for previous period, not considered earlier.

14. Learned counsel contended that the State Commission vide its order dated 13.06.2019 in Petition No. RERC-1464/19 allowed the recovery of the amount in 36 months as it had an impact of 5 paisa/Kwh. Since the supplementary bills (credits received) of Rs 5130.32 Crores were received

in June 2018, in terms of Regulation 88 and its corresponding notes, the amount was to be included while computing the FSA, which was to be levied in Quarter 2 of FY 2018-19. The Commission also held that the FSA over this period will be recoverable on the consumption of first Quarter of FY 2018-2019 (April, May, June of 2018) for all categories of consumers. The Respondents further contended that when the recovery was done by the Discoms based on Payment made by them to APRL in compliance to the Hon'ble Supreme Court Order and RERC order dated 13.06.2019 no such objection was ever raised by the Appellant on the said ground of selection of appropriate period for determining the cost. Therefore, now, when the recovery of remaining payment, made to APRL based on Supreme Court order, is being allowed based on one quarter of energy consumption, raising an objection by the Appellant, at this stage, is not legitimate and should not be permitted as it amounts to an act of estoppel. It is further submitted that the State Commission's order dated 01.09.2022 is general in nature, which is applicable for the entire State of Rajasthan and for every type of consumer. Moreover, since the said order is in force since October 2022, an amount of approximately Rs.1,747 Crore has already been assessed from consumers in terms of that order. Hence, any interference with the said order, at this stage, will have repercussions of wider magnitude, and therefore, prayed for dismissal of the appeal.

## **Discussion and Analysis**

15. After considering the arguments of learned counsel for both the parties and on a perusal of the impugned order and case records, it is apparent that only one quarter of energy consumption i.e. Quarter 4 of FY 2021-22 of consumers has been considered for ascertaining quantum of their individual financial liability out of total quantum of FSA



of Rs 7438.58 Crore (Rs 5996.40 Crore Principal amount and Rs 1442.18 Crore interest component) through 30/60 equal monthly instalments, corresponding to Change in law claim for a period of almost 5 years.

***“Whether such an approach is in line with Regulation 88 of the Rajasthan Electricity Regulatory Commission (RERC) Tariff Regulations 2019”?***

16. There is no dispute regarding the entitlement of the Respondent Discoms to recover the amount so worked out in the impugned order and the period of recovery of 30/60 months through levy of special FSA. The Appellant is mainly aggrieved by the methodology adopted by the State commission in fastening the liability on them considering their energy consumption of one quarter i.e. Quarter 4 of FY 2021-22; non-applicability of Regulation 88 of RERC Tariff Regulation 2019 in doing so and inconsistency in selection of quarter when compared with previous order of the State commission dated 13.06.2019.

17. The Regulation 88 of RERC tariff Regulations 2019 is reproduced below:

***“88. Fuel Surcharge***

*(1) The Fuel Surcharge (FS) chargeable by the Distribution Licensee from its consumers for any quarter, shall be computed as per the following formula:*

$$FS = \frac{C + Ip}{E} \text{ (Rs./ kWh)}$$

*Where*

$C$  (in Rs. Lakh) = {(Weighted Average Variable Cost of all sources of power purchase during previous quarter in Rs/kWh – Base Weighted Average Variable Cost of all sources of power purchase as approved under Tariff Order for the year under operation in Rs/kWh) x Corresponding Power Purchase from all sources during previous quarter in LU}

$E$  (in Lakh Units) = Energy sold (metered plus estimated) during previous quarter.  $I_p$  (In Rs. Lakh) = Under-recovery of fuel surcharge in the previous quarter.

Note:

- (i) Quarter referred under this formula shall correspond to financial quarter (s) viz. Q1 (Apr. to Jun), Q2 (Jul to Sept), Q3 (Oct to Dec), and Q4 (Jan to Mar).
- (ii) The variation in power purchase cost due to Charges for Deviations incurred by Distribution Licensee as per Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 as amended from time to time and Hydro based generation and other unapproved purchases shall not be covered under fuel surcharge adjustment.
- (iv) For the generation stations/power purchase sources, which have single part tariff, 1/3 of the tariff shall be considered as fixed charge and 2/3 of the tariff shall be considered as energy charge for adjustment under this formula.

*(v) The cost and quantum of power purchase shall be based on bills paid/credits received during the previous quarter irrespective of period to which it pertains and shall include arrears or refunds, if any, for previous period, not considered earlier.*

*(2) The rate of Fuel Surcharge shall be worked out in Rs./kWh rounded off to the next second decimal place.*

*(3) The Fuel Surcharge per unit for any quarter shall not exceed 15% of weighted average power purchase cost per unit approved by the Commission, or such other ceiling as may be stipulated by the Commission from time to time: Provided that Distribution Licensee may file a separate Petition before the Commission for approval of recovery of the Fuel Surcharge over and above ceiling limit as specified above.*

*(4) The total Fuel Surcharge recoverable, as per the formula specified above, shall be recovered from the actual sales and in case of un-metered consumers, it shall be recoverable based on estimated sales to such consumers, calculated in accordance with such methodology as may be stipulated by the Commission.*

18. From a bare reading of the above Regulation, it appears that it provides for recovery of fuel surcharge for any quarter based on weighted Average variable cost of all sources of power purchase during previous quarter (C), Energy sold during previous quarter (E) as well as under recovery of fuel surcharge (Ip) during previous quarter. Therefore, energy sold, under recovery of fuel surcharge as well as average

variable cost of power purchase all relate to same quarter i.e. the previous quarter. Note (v) of Regulation 88 of RERC Regulations refers that the cost of quantum of power purchase shall be based on bills paid and credit received during the quarter irrespective of the period to which it pertains and shall include arrears or refunds, if any, for previous period, not considered earlier. Let us evaluate whether Regulation 88 along with Note (v) is applicable while deciding fuel surcharge adjustment for almost 19 quarters on the basis of energy consumption for one previous quarter. Regulation 88 (2) provides that the fuel surcharge per unit for any quarter shall not exceed 15% of weighted average power purchase cost. The State commission itself in the impugned order has observed as under:

*“3.33 Accordingly, considering the sales of 18,439.89 MUs in Quarter 4 of FY 2021-22, the special FSA on the account of APRL comes out to be Rs.3.72 per unit. However, the provisions of RERC Tariff Regulations, 2019 limits the recoverable FSA to 15% of weighted average power purchase cost approved by the Commission or such other ceiling as may be stipulated by the Commission from time to time.*

*“88 (3) The fuel Surcharge per unit for any quarter shall not exceed 15% of weighted average power purchase cost approved by the Commission, or such other ceiling as may be stipulated by the Commission from time to time.”*

*3.34 The computed FSA due to variations in cost of power procured from APRL exceeds the ceiling limit of 15% which in this case is Rs.0.60 per unit. Moreover, loading the entire FSA in one quarter would also result in a tariff shock to the consumers”.*

19. The application of Regulation 88 of RERC Tariff Regulations 2019 to recover fuel surcharge adjustment pertaining to 19 Quarters even in

two tranches exceeds the ceiling provided. Thus the said regulation has not provided for when recovery is to be made for as long as 19 quarters and even recovery for one quarter should not exceed the ceiling provided or stipulated by the State commission from time to time.

20. We are, therefore, of the opinion that Regulation 88 of RERC Tariff Regulations 2019 does not provide for adjustment of Fuel adjustment cost for a period of almost five years (approx. 19 quarters).

21. The Respondents have contended that the State commission, vide its order dated 13.06.2019, has decided similar methodology of adopting one quarter of energy consumption (Quarter 1 of FY 2018-19) of consumers to derive their share in 50 % of FSA paid (Rs 2709.36 Crores including interest component of Rs 420.96 Crore) to comply with the order of the Hon'ble Supreme Court, dated 29.10.2018. The Appellant had not objected to it, and therefore, raising an objection at this stage is not legitimate as it amounts to an act of estoppel. Lets us examine the similarity between the procedure adopted in both the orders:

<b>Particulars</b>	<b>Pursuant to Supreme Court interim Order in CA No. 10188/2018</b>	<b>Pursuant to Supreme Court final Order dated in CA No. 8625-8626/2019</b>
Period for which cost incurred	May 2013 – January 2018 (50% of the cost)	May 2013 – January 2018 (Remaining 50%)

Supreme Court order Date	29.10.2018 ( Q3 of FY 2018-19)	25.02.2022 ( Q4 of FY 2021-22)
Amount considered for recovery by Discoms	Rs 2709.36 Crore ( principal of 2288.40 Crore and interest Rs 420.96 Crore	Rs7438.58 Crore ( principal of Rs 5996.40 Crore and interest of Rs 1442.18 Crore )
RERC order date approving recovery by Discoms	13.06.2019 (Q1 of FY 2019-20)	01.09.2022 (Q2 of FY 2021-22)
Payment made by Discoms	Q3/Q4 of 2018-19 ( payment made between Supreme court order dated 29.10.2018 and date of filing of petition (18.02.2019 ) before RERC for its recovery	Q4 of FY 2021-22
Energy consumption period considered	Q1 FY 2018-19	Q4 of FY 2021-22

22. Now lets us see which is previous quarter (for the purpose of energy consumption consideration) from various important dates in both the above cases.

<b>Particulars</b>	<b>Pursuant to Supreme Court interim Order in CA No. 10188/2018-First event</b>	<b>Pursuant to Supreme Court final Order dated in CA No. 8625-8626/2019 Second event</b>
Previous Qtr from Supreme Court order Date	Q2 of FY 2018-19	Q3 of FY 2021-22
Previous Qtr from RERC order date approving recovery by Discoms	Q4 of FY 2018-19	Q1 of FY 2021-22
Previous Qtr from Payment date by Discoms	Q2/Q3 of 2018-19	Q3 of FY 2021-22
Energy consumption period actually considered	Q1 FY 2018-19	Q4 of FY 2021-22

23. On a perusal of the above table, it is evident that previous quarter selected for energy consumption purposes in both the above cases has no correlation with the important dates, be it the order of the Hon'ble Supreme Court, the order of the State Commission or the date on which the payment made. The only similarity between both the cases is that only one quarter of energy consumption has been considered, but there is no consistency in selecting that previous quarter for energy consumption purposes. Therefore, objecting to the methodology adopted in second case i.e. impugned order, by the Appellant now does not constitute an act of estoppel. As such, the Appellant has expressed their consent for considering only one quarter of energy consumption, provided same procedure is followed as was followed in State Commission's order dated 13.06.2019.

24. In view of above deliberation/observation, we do not agree with the contention of the Respondents that a consistent approach has been adopted in both the cases in compliance with Regulation 88 of RERC Tariff Regulations 2019, as, in the first event, supplementary bills were received in June 2018, in that case Quarter 1 of FY 2018-19 was considered for energy consumption by consumers, though the same was not deliberated in the RERC order dated 13.06.2019, while in the second case, the amount was paid in March 2022, so Quarter 4 of FY 2021-22 was considered for consideration of energy consumption. Thus, we are of the view that there is no consistency in choosing the previous quarter for energy consumption, in both the cases.

25. The main issue under consideration is recovery of Fuel Supply Adjustment for almost 5 years (19 quarters). In our opinion, as brought



out above, the Regulation 88 of RERC Tariff Regulations 2019 has not dealt with the issue when recovery is pertaining to almost 19 quarters and not that of one quarter adjustment. As such, recovery of Fuel Supply Adjustment, for such a long period, strictly in terms of the Regulation 88 of RERC Tariff Regulations 2019, would also violate the ceiling applied under Regulation 88(2). Thus, recovering FSA for a period of almost five years (May 2013-January 2018), subsequent to final order of the Hon'ble Supreme Court, dated 25.02.2022, based on one quarter of energy consumption of consumers in Quarter 4 of FY 2021-22 is not as per RERC Tariff Regulations 2019. We refrain from making any comment on the one quarter energy consumption approach adopted and money recovered in line with the earlier order of RERC dated 13.06.2019, since the same is not under challenge before this Tribunal.. Needless to state that our observation and directions are limited to the order under this appeal only. Now, even otherwise if the single quarter of energy consumption of consumers is chosen by drawing a parallel/equivalence with earlier order of RERC dated 13.06.2019, then also the question would remain, is it justified to mulct the consumers with the financial liability based on their one quarter of energy consumption for fuel supply adjustment for a period from May 2013 to January 2018 when their actual consumption for the quarter chosen period could be in great variance as compared with the period for which financial liability is being fastened on them. Besides, the amount involved for recovery is quite huge i.e. Rs. 7438.58 00 Crore. In our opinion, ideally the financial liability should be fastened based on their average energy consumption during the period for which this additional liability has accrued. However considering that the period under consideration pertains to almost 10 years back (May 2013 to January 2018), there could be issues and practical limitation in fetching energy consumption details for such

period for making adjustments. As contended by the Appellant, and even otherwise, there could be aberrations in the energy consumption pattern of various consumers in one particular quarter on account of various reasons. Therefore, by merely adjusting/ changing the quarter, some other consumers may face similar issue. We therefore feel, the aberrations, if any, in energy consumptions pattern can be taken care if average energy consumption over a longer period is considered. It is, therefore, most appropriate that share of financial liability of each consumer be fixed based on their average quarterly/monthly energy consumption over complete Financial year which will take care of aberrations in their energy consumption pattern on account of seasonal variation, production cycle, market strategy, some unusual energy demand or any other reason which may appear in one quarter of energy consumption pattern. For this purpose, complete average energy consumption for FY 2021-22 to be considered instead of one quarter i.e. Quarter 4 of FY 2021-22. Methodology of recovery to be kept same as in impugned order like in 30/60 monthly instalments depending upon bimonthly or monthly billing cycle.

26. In view of the above discussion, we set aside the impugned order dated 01.09.2022 and remit the matter to the State Commission directing it to work out the financial liability of the customers considering their average monthly/ quarterly energy consumption during the entire FY 2021-22 and method of recovery period may be kept same as in the impugned order i.e. total 30/60 monthly instalments depending upon bimonthly or monthly billing cycle. Number of monthly and bimonthly instalments including the amount paid by consumers to be adjusted from the amount to be worked out now. The Respondent Discoms to make

available the data so directed/desired by State commission within three weeks. The State commission is advised to complete this exercise, as expeditiously as possible, preferably within two months from the date of receipt of this order. The appeal is, accordingly, disposed of. There shall be no order as to costs.

**Pronounced in open court on this 12<sup>th</sup> day of March, 2024**

**(Seema Gupta)**  
**Technical Member(Electricity)**

**(Justice Ramesh Ranganathan)**  
**Chairperson**

**REPORTABLE / ~~NON-REPORTABLE~~**

ts/dk/ag