CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Petition No. 267/2010 & 227/TT/2013

Coram:

Shri Gireesh B. Pradhan, Chairman
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member

Date of Hearing: 26.08.2014
Order issued on:30.06.2015

In the matter of:

Determination of transmission tariff for Barh-Balia 400 kV D/C (Quad) line under Transmission System associated with Barh Generation Project (3X660 MW) in Eastern Region from the date of commercial operation to 31.3.2014 under Regulation-86 of Central Electricity Regulatory Commission (Conduct of Business) Regulations 1999, and Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2009.

And in the matter of:

Approval of revised transmission tariff for Barh-Balia 400 kV D/C (Quad) line along with associated bays at Balia Sub-station under Transmission System associated with Barh Generation Project (3x660 MW) in Eastern Region for tariff block 2009-14.

And In the matter of:

Power Grid Corporation of India Limited
"Saudamini", Plot No.2,
Sector-29, Gurgaon -122 001 **……Petitioner**

Vs

1. Uttar Pradesh Power Corporation Limited,
   (Formerly Uttar Pradesh State Electricity Board),
   Shakti Bhawan, 14, Ashok Marg,
   Lucknow-226 001

2. Rajasthan Rajya Vidyut Prasaran Nigam Limited,
   Vidyut Bhawan, Vidyut Marg,
   Jaipur- 302 005

3. Ajmer Vidyut Vitran Nigam Limited,
   400 kV GSS Building (Ground Floor), Ajmer Road,
   Heerapura, Jaipur-302 024

4. Jaipur Vidyut Vitran Nigam Limited,
   400 kV GSS Building (Ground Floor), Ajmer Road,
   Heerapura, Jaipur-302 024

5. Jodhpur Vidyut Vitran Nigam Limited,
   400 kV GSS Building (Ground Floor), Ajmer Road,
   Heerapura, Jaipur-302 024

6. Himachal Pradesh State Electricity Board,
   Vidyut Bhawan, Kumar House Complex Building II,
   Shimla-171 004

7. Punjab State Power Corporation Limited,
   220 kV sub-station, Akolwal, Near Patiala,
   Punjab-147 001

8. Haryana Power Purchase Centre,
   Shakti Bhawan, Sector-6,
   Panchkula (Haryana)-134 109

9. Power Development Department,
   Govt. of Jammu and Kashmir,
   Mini Secretariat, Jammu-180 001

10. Delhi Transco Limited,
    Shakti Sadan, Kotla Road,
    New Delhi-110 002

11. BSES Yamuna Power Limited,
    Shakti Kiran Building, Karkardooma,
    New Delhi

12. BSES Rajdhani Power Limited,
    BSES Bhawan, Nehru Place,
    New Delhi-110 019

13. North Delhi Power Limited,
    Power Trading & Load Dispatch Group,
    Cennet Building, Adjacent to 66/11kV Pitampura-3,
    Grid Building, Near PP Jewellers,
    Pitampura, New Delhi-110 034

14. Chandigarh Administration,
Sector-9, Chandigarh-160 009

15. Uttarakhand Power Corporation Limited,
Urja Bhawan, Kanwali Road,
Dehradun

16. North Central Railway,
Allahabad

17. New Delhi Municipal Council,
Palika Kendra, Sansad Marg,
New Delhi-110 002

18. NTPC Limited,
Noida, Uttar Pradesh ….**Respondents**

For petitioner: Shri Sanjay Sen, Sr. Advocate, PGCIL
Ms. Swapna Seshadri, PGCIL
Shri S.K. Venkatesan, PGCIL
Ms. Seema Gupta, PGCIL
Mr. Swapnil Verma, PGCIL
Shri S.S. Raju, PGCIL
Shri M.M. Mondal, PGCIL
Shri A.M. Pavgi, PGCIL

For respondents: Shri R.B. Sharma, Advocate, BRPL
Shri Pradeep Misra, Advocate, PSPCL
Shri Manoj Kr. Sharma, Advocate, PSPCL
Shri Padamjit Singh, PSPCL
Shri T.P.S. Bawa, PSPCL
Shri Mishri Lal, Northern Railway, Allahabad
Shri Dinesh Singh, Northern Railway, Allahabad

ORDER

Power Grid Corporation of India Limited (PGCIL) filed Petition No.267/2010 seeking approval of transmission charges for Barh-Balia 400 kV D/C (Quad) line along with associated bays at Balia Sub-station (hereinafter referred to as "transmission assets") under Transmission System associated with Barh Generation Project (3x660 MW) in Eastern Region for tariff period 2009-14, based on the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as "the 2009 Tariff Regulations"). The petitioner filed Petition No.227/TT/2013 on 28.2.2013 seeking approval of revised transmission charges for the transmission assets in view of the approval of Revised Cost Estimates (RCE) by the petitioner's Board of Directors.

Brief background

2. NTPC was constructing a Super Thermal Power Station at Barh in the State of Bihar. For evacuation of power from Stage-I of Barh STPS comprising 3 units of 660 MW each, associated transmission system comprising sub-stations, transmission lines, etc, including 400 kV Barh-Balia double circuit line was constructed by the petitioner. The construction of Balia Sub-station and the transmission line was under the scope of petitioner and the construction of Barh Sub-station and the switchgear of the line at Barh end was under the scope of NTPC. Commissioning of Barh STPS Stage-I of NTPC was delayed for some reason. However, the petitioner completed the 400 kV Barh-Balia double circuit line and charged the line from Balia end on 30.6.2010 and claimed transmission tariff for the period 1.4.2009 to 31.3.2014 in Petition No. 267/2010 considering the date of commercial operation as 1.7.2010. The transmission tariff for the said asset was granted vide order dated 29.4.2011.

3. Punjab State Power Corporation Limited (PSPCL) filed an Appeal No.123/2011 before the Hon'ble Appellate Tribunal of Electricity (APTEL) against the Commission's order dated 29.4.2011 on the issue of date of commercial operation of the transmission asset. PSPCL submitted before APTEL that the instant line was idle charged and not loaded from both ends as on 1.7.2010. The APTEL vide judgement dated 2.7.2012 in Appeal No. 123/2011 set aside the Commission's order dated 29.4.2011 and remanded the matter back to the Commission for redetermination of the date of commercial operation of the instant asset. The relevant portions of the APTEL's order are as follows:-

> "7. We have heard the Ld. Counsel for the Appellant and the Respondent no.1 on the above issue and carefully considered their rival contentions. In the light of their submissions, the only issue that is to be decided by us is as under:-
>
> "Whether on idle charging of a new transmission line connecting a sub-station of a transmission licensee to a generating station of a generating company from one end when the switchgear and metering and protection system at the generating station end is not made ready by the generating company, could it be declared as having achieved the COD for recovery of transmission charges from the beneficiaries?"
>
> "8.6 According to the Appellant, the works at the Barh end were completed by NTPC only in August, 2011 and the first circuit of Barh-Balia line was loaded on 02.08.2011 while the second circuit was loaded on 19.08.2011."
>
> "10. A transmission system may comprise of one or more transmission lines and sub-station, inter-connecting transformer, etc. According to above definition an element of the transmission system which includes a transmission line, could be declared as attained COD if the following conditions are met.
>
> i) The line has been charged successfully,
> ii) Its trial operation has been successfully carried out, and
> iii) It is in regular service.
>
> 11. Thus, Barh-Balia line in order to achieve COD should have been charged successfully, its trial operation should have been completed and it should have been in regular service. While the line was idle charged only from Balia end on 30.06.2010, its charging from Barh end, its trial operation and regular service was not possible as the switchgear at Barh end of the line was not ready. Admittedly, the switchgear, protection system and metering arrangement of the transmission line at Barh end were not ready on 01.07.2010 and reported to have been

completed only in August, 2011. Thus, all the conditions laid down in the Tariff Regulations for attaining COD had not been complied with.

12. Ld. Counsel for the Respondent no.1 has argued that the second proviso to Regulation 3 (12) (c) of the Tariff Regulations stipulates that in case an element of the transmission system is ready for regular service but is prevented from providing such service for reasons not attributable to the transmission licensee, the Commission may approve COD prior to the element coming into service.

13. In our opinion this proviso is not applicable in this case as Barh-Balia line was not ready for regular service due to non-installation of the switchgear at Barh end. Merely because the components of the transmission line in the scope of POWERGRID (R-1) were ready, the line could not be considered as completed and ready for use till the switchgear and protection and metering arrangements, etc; at the Barh end of the line were completed. Both ends of the switchgear protection and metering systems along with the overhead line are components of the transmission line. If for the sake of convenience of construction and operation and maintenance, the scope of work of the components of transmission line at the generating station end has been entrusted to the generating company, the transmission line could not be considered as completed unless all the components of the transmission are ready for use. The second proviso to the definition of COD, in our opinion, will be applicable if the transmission line is ready in all respect for regular use but is prevented for use due to some reasons beyond the control of transmission licensee, e.g. high voltage in the system."

"16. We notice that the Appellant had filed three affidavits on 04.03.2011, 15.03.2011 and 07.04.2011 before the Central Commission, between date of hearing on 25.01.2011 and the date of the impugned order on 29.04.2011. It is noticed that these affidavits were not considered by the Central Commission. This is evident from the recording in paragraph 6 of the impugned order ….. "

4. The petitioner filed a Review Petition No. 09/2012 before APTEL seeking review of the APTEL's judgement in Appeal No. 123 of 2011. APTEL vide judgement dated 8.11.2012 dismissed the Review Petition of the petitioner. Thereafter, the petitioner filed Civil Appeals No.9302 of 2012 and 9193 of 2012 before the Hon'ble Supreme Court against the APTEL's judgement. The Hon'ble Supreme Court in its order dated 15.3.2013 stayed the proceedings before the Commission during the pendency of the appeal. In the meanwhile, RCE for the Barh-Balia Transmission System was approved by the petitioner's Board and the petitioner filed Petition

No.227/2013 seeking final tariff for Barh-Balia Transmission System. The petitioner further filed a Civil Appeal before the Hon'ble Supreme Court seeking modification of the order dated 15.3.2013. The Hon'ble Supreme Court vide order dated 8.10.2013 directed the Commission to proceed with the determination of transmission tariff of the instant assets.

5. As per the directions of the Hon'ble Supreme Court we proceed to determine the transmission tariff of the instant assets and re-determine the date of commercial operation of the instant assets as per the directions of APTEL in its judgement dated 2.7.2012 subject to the outcome of the Civil Appeals filed by the petitioner before the Hon'ble Supreme Court.

6. During the hearing on 26.8.2014, the learned senior counsel for the petitioner submitted that Balia end of the transmission line was ready on 1.7.2010 and both the ends were ready on 1.9.2011 and the line is in regular service since 1.9.2011. He further submitted that all the activities were completed by the petitioner with regard to the Barh-Balia transmission line and there was nothing pending on the part of the petitioner as on 1.7.2010. Each of the items referred to by PSPCL before APTEL namely, the circuit Breakers, CTs and PTs, Isolators, Relays, Protection, etc were to be installed by NTPC as a part of Barh Generating station and these are not to be done by the petitioner. The learned senior counsel also submitted that the meters, both main meter and check meters could have been installed by the petitioner only after NTPC had established the Control Room/Panel at Barh Generating Station and was ready to energise the line from Barh Generating station. The installation of the

meter has to be followed by energisation as the meter cannot be kept un-energised for a long time. As per the directive of Ministry of Power, the switchyard, etc at the generating station end are to be provided by the generating station and not by transmission licensee.

7. In response to a query during the hearing on 20.5.2014, the learned senior counsel for the petitioner submitted that actual flow of electricity started from September, 2011 and revised claim for transmission tariff considering the date of commercial operation as 1.9.2011 has been filed but without prejudice to its rights in the appeal filed by the petitioner in the Hon'ble Supreme Court.

8. PSPCL has raised objections both during the hearing and in the affidavits dated 4.3.2011, 15.3.2011 and 8.4.2011 in Petition No.267/2010 regarding the date of commercial operation. The basic contention of PSPCL submissions is the instant transmission asset has not fulfilled the three conditions of successful charging, trial operation and regular use of the line laid down in Regulation 3(12)(c) of the 2009 Tariff Regulations. PSPCL has further submitted that the instant asset had not become operational and the beneficiaries of NR are not getting any benefit from the line. The data displayed on the NRLDC website also does not show that power is flowing on this line.

9. We have considered the submissions made by the petitioner and the respondents, including the affidavits dated 4.3.2011, 15.3.2011 and 8.4.2011 filed by PSPCL. The switchgear at the Barh end of the Barh-Balia line, CTs/PTs required for

protection and metering were to be installed by NTPC and the petitioner, as a CTU in discharge of its statutory function, has to only provide main and check meters. These meters could be installed by the petitioner only after NTPC had established the control room/panel at Barh station and was ready to energise the line from Barh end. Although, the line was charged from Balia end, it could not be charged from Barh end because of non-readiness of switchgear at Barh end. Thus, the line was idle charged and no power was flowing through the transmission line from 1.7.2010 to 1.9.2011. As the works at the Barh end were completed by NTPC only in August, 2011, the first circuit of Barh-Balia line was loaded on 2.8.2011 and the second circuit was loaded on 19.8.2011. PSPCL vide affidavit dated 9.4.2014 has made similar submissions before APTEL in Appeal No.123/2011. The instant transmission line has been successfully charged and put into effective use from 1.9.2011 following the procedure laid down in Regulation 3(12)(c) of the 2009 Tariff Regulations and as observed by APTEL in its judgement 2.7.2012. Therefore, we are of the considered view that date of commercial operation of the transmission assets is 1.9.2011.

10. The capital cost was restricted to the approved apportioned estimated cost in the order dated 29.4.2011 in Petition No. 267/2010. The petitioner has claimed revision of transmission tariff on the basis of the Revised Cost Estimates (RCE) approved by the petitioner’s Board vide Memorandum No. C/CP/RCE of Transmission System associated with Barh Generation Project dated 23.1.2012. As per the said Memorandum, the RCE of instant transmission line is ₹428259 lakh including IDC of ₹41326 lakh (based on 1st Quarter 2011 price level).

11. In view of the above, the transmission charges for the instant transmission assets is being revised taking into consideration the date of commercial operation as 1.9.2011. Accordingly, the instant order shall supersede the order dated 29.4.2011 in Petition No.267/2010 and the transmission tariff allowed for the instant transmission line vide order dated 29.4.2011 in Petition No.267/2010 is being revised in the instant order on the basis of revised date of commercial operation and the RCE.

12. The petitioner was directed to submit the revised capital cost as on 1.9.2011, revised Forms, reasons of estimated completion cost exceeding the RCE, certified copy of the RCE approved by the Board. The petitioner filed the said information vide affidavit dated 18.11.2013.

13. The petitioner was directed to implead NTPC as a respondent vide "Record of Proceedings" dated 29.10.2013 and serve a copy of the petition and the replies received from the other respondents and other related documents on NTPC. Accordingly, NTPC has been impleaded as one of the respondents in the matter.

14. Reply to Petition No.227/TT/2013 has been filed by BSES Rajdhani Power Limited (BRPL) Respondent No.12, and NTPC, Respondent No.18 vide separate affidavits dated 21.4.2014. The petitioner has filed its rejoinder to the reply filed by BRPL and NTPC vide separate affidavits dated 20.8.2014. Punjab State Power Corporation Limited (PSPCL), Respondent No. 7 has also made submissions on 30.6.2014. The petitioner has also filed its comments to the submissions made by PSPCL, vide affidavit dated 22.8.2014. The respondents have raised issues like time

over-run, cost over-run, additional capital expenditure, RCE, O&M Expenses, etc. The issues raised by the respondents and the clarifications given by the petitioner are dealt in respective paras of this order and some of the objections raised by the respondents have been dealt hereunder.

15. BRPL in its reply submitted that the petitioner has laid Optical Ground Wire (OPGW) in place of earth wire and the petitioner intends to use the transmission assets for communication purposes. BRPL submitted that the petitioner should adjust the revenue earned from the communication business towards reducing the transmission charges allowed in the instant order. We have considered the submissions made by BRPL and we are of the view that revenue earned by the petitioner from using the instant assets for other than the transmission of electricity should be reduced from the transmission charges allowed in this order. Accordingly, the petitioner is directed to submit the details of revenue earned, if any, from other businesses at the time of truing-up for adjustment in the transmission charges allowed herein.

16. NTPC in its reply submitted that Commission has impleaded NTPC as a respondent in Petition No.267/2010 for redetermination of the date of commercial operation of the transmission assets. NTPC submitted that it was not a party to the original proceedings or before the APTEL or before the Hon'ble Supreme court and making it a party to the remand proceedings would exceed the scope of remand proceedings and NTPC may be deleted as a party in the present proceedings. The petitioner in its rejoinder has clarified that all the work to be done by it was completed

on 1.7.2010 and the works at the end of Barh Generating Station to be completed by NTPC were not complete by 1.7.2010. The petitioner has further submitted that the Commission's order in this matter would decide the rights of NTPC and hence NTPC is a necessary party in the matter. We have considered the submissions made by the petitioner and NTPC. We are of the view that NTPC is a necessary party and whose presence is essential for the redetermination of the date of commercial operation and accordingly it has been impleaded as a respondent in this matter.

17. NTPC in its reply has further submitted that it had entered into Indemnification Agreement with the petitioner on 13.11.2006 setting out the terms and conditions for bilateral indemnification. The agreed Zero date was 1.10.2009 and accordingly the transmission assets were to be commissioned by 1.10.2009. As per the Indemnification Agreement, an indemnity is provided for a limited period of six months from the Zero Date in case the assets of one party are ready on the Zero Date and the project of the other party is not ready. NTPC submitted that the instant transmission assets were originally envisaged as part of the Associated Transmission System of Barh STPP Stage-I. Subsequently, in the 15th NRPC meeting held on 24.12.2009, it was agreed by the members including the petitioner that this line would provide additional corridor for power transfer from ER to NR grid. As such, the transmission asset got delinked with Barh ATS and was declared as system strengthening lines and accordingly the petitioner proceeded with commissioning of the instant assets. In view of this, NTPC cannot be made liable under the Indemnification Agreement. In response, the petitioner clarified that it is not

making any claim against NTPC under the terms of Indemnification Agreement. The petitioner submitted that it has correctly commissioned the asset on 1.7.2010 and it is the stand taken before the Hon'ble Supreme Court. There is no fault attributable to the petitioner and there should not be any adverse financial impact on it.

18. Having heard the representatives of the parties, the petitioner and perused the material on record, we proceed to dispose of the petition.

19. The petitioner has claimed the following revised transmission charges for the instant asset:-

(₹ in lakh)

Particulars	**2011-12**	**2012-13**	**2013-14**
Depreciation	2344.54	4027.16	4045.66
Interest on Loan	2329.91	3740.55	3421.45
Return on Equity	2328.37	3999.38	4017.75
Interest on Working Capital	150.29	253.90	249.34
O & M Expenses	217.10	393.44	415.81
Total	**7370.21**	**12414.43**	**12150.01**

20. The details submitted by the petitioner in support of its revised claim for interest on working capital are as under:-

(₹ in lakh)

Particulars	**2011-12**	**2012-13**	**2013-14**
Maintenance Spares	55.83	59.02	62.37
O & M expenses	31.01	32.79	34.65
Receivables	2105.77	2069.07	2025.00
Total	**2192.61**	**2160.88**	**2122.02**
Rate of Interest	11.75%	11.75%	11.75%
Interest	**193.22**	**253.90**	**249.34**

CAPITAL COST

21. Regulation 7 of the 2009 Tariff Regulations provides as follows:-

"(1) Capital cost for a project shall include:-

(a) The expenditure incurred or projected to be incurred, including interest during construction and financing charges, any gain or loss on account of foreign exchange risk variation during construction on the loan – (i) being equal to 70% of the funds deployed, in the event of the actual equity in excess of 30% of the funds deployed, by treating the excess equity as normative loan, or (ii)being equal to the actual amount of loan in the event of the actual equity less than 30% of the fund deployed, - up to the date of commercial operation of the project, as admitted by the Commission, after prudence check.

(b) capitalised initial spares subject to the ceiling rates specified in regulation 8; and

(c) additional capital expenditure determined under regulation 9:

Provided that the assets forming part of the project, but not in use shall be taken out of the capital cost.

(2) The capital cost admitted by the Commission after prudence check shall form the basis for determination of tariff:

Provided that in case of the thermal generating station and the transmission system, prudence check of capital cost may be carried out based on the benchmark norms to be specified by the Commission from time to time:

Provided further that in cases where benchmark norms have not been specified, prudence check may include scrutiny of the reasonableness of the capital expenditure, financing plan, interest during construction, use of efficient technology, cost over-run and time over-run, and such other matters as may be considered appropriate by the Commission for determination of tariff."

22. The details of capital cost claimed by the petitioner as on the revised date of commercial operation and the projected additional capital expenditure are as follows:-

(₹ in lakh)

Revised apportioned approved cost	Projected cost incurred as on COD	Projected Additional Capitalisation			Total estimated completion cost
		COD to 31.3.2012	2012-13 (Actual)	2013-14 (Estimated)	
73594.00	76111.10	-	300.70	400.00	76811.80

Capital cost as on the date of commercial operation is inclusive of initial spares of ₹428.85 lakh.

Cost Over-run

23. The Commission vide order dated 29.4.2011 in Petition No. 267/2010 had restricted the capital cost to the apportioned approved cost of ₹41444.30 lakh. The relevant para is extracted as below:-

> "12. It can be seen that the estimated completion cost including the projected additional capital expenditure during 2009-14 is ₹70732.14 lakh against the approved apportioned ₹41444.30 lakh which implies that there is cost variation of ₹29287.84 lakh. The petitioner has attributed the cost variation mainly to construction of multi-circuit towers near NTPC Barh station and use of more number of angle towers due to corridor constraints. In this connection, petitioner has explained the reasons for cost variation as under:
>
> (a) The Feasibility Report route length of transmission asset is 195 km, whereas in actual, the route length is 243.116 km. i.e. the route length of the transmission asset has increased by 48.116 km and same was increased at the time of survey of the Barh-Balia transmission line. It has been submitted that at the time of construction of transmission asset, Kahalgaon-Patna-Balia as well as Balia Biharshariff-Kahalgaon transmission lines were constructed. Due to above crossing and corridor constraints, route length of transmission line was increased and thereby the cost of the project has gone up;
>
> (b) Though there has been a time overrun in completion of the project, neither any compensation nor price escalation beyond contract schedule has been allowed against the project, as such there is no price increase on this account for the period of time over-run.
>
> (c) Since in the transmission line model for the bench-marking, the indices are available till the Month of June 2010 only and the model does not make any provision for multi-ckt towers and the subject line in question was commissioned in the month of July, 2010, as well as it has multi-ckt towers and as per model exact bench marking could not be carried out for the entire transmission line

exactly as per model. However, the capital cost of the transmission asset Rs. lakh/ckt.km excluding multi-ckt portion i.e. only for 400 kV portion is the same as given in data base for bench marking model.

13. It is noted that the petitioner has claimed the capital cost of ₹69801.16 lakh as on the date of commercial operation for the purpose of tariff. However, the capital cost as on the date of commercial operation exceeds the apportioned approved capital cost. The petitioner vide its affidavit dated 14.2.2010 has submitted that the approval of revised cost estimate of the transmission asset is under advance stage. In the absence of revised cost estimate, we have restricted the capital cost to apportioned approved capital cost of ₹41444.30 lakh.

14. The petitioner has further submitted that it would approach the Commission for suitable revision of tariff after approval of revised cost estimate. Needless to add that any such application and when, will be dealt with in accordance with law."

24. Even after the submission of RCE, the total estimated completion cost (₹72106.63 lakh) of the instant asset exceeds its apportioned approved cost (₹70744.00 lakh). As such, the petitioner was directed to give reasons for the same.

25. The petitioner vide affidavit dated 18.11.2013, submitted that the estimated expenditure of the bays at Balia Sub-station of ₹2850 lakh was inadvertently not included in the subject asset and it was included in the apportioned approved cost of Balia-Bhiwadi Pole-I in Petition No. 150/TT/2013. The reason for this inadvertent omission was due to inter-regional nature of commissioning of the subject asset, wherein as per the internal accounting procedure of the petitioner, the Barh-Balia Transmission line is under Eastern Region and Balia Sub-station bays and extension is under Northern Region.

26. The estimated completion cost of the asset works out to ₹76811 lakh which exceeds the revised approved apportioned cost of ₹73594 lakh. The capital cost as on the revised date of commercial operation has been restricted to revised approved

apportioned cost and reduced by ₹2517.10 lakh (i.e. ₹76111.10 lakh-₹73594.00 lakh). The additional capital expenditure claimed by the petitioner for the period starting from the date of commercial operation to 31.3.2014 is therefore disallowed in view of cost being restricted upto apportioned approved cost.

27. BRPL in its reply has submitted that the petitioner has attributed the cost over-run to the increase in line length which is not correct and the same should be scrutinized by the Commission. In response, the petitioner in its rejoinder has submitted that the reasons for cost increase have already been submitted vide earlier affidavits dated 16.4.2014 and 16.5.2014. Further, BRPL did not file any appeal against the order dated 29.4.2011 and no submissions were made by BRPL in Appeal No. 123 of 2011. Therefore, it is too late for BRPL to start challenging the issue of delay and the reasons thereof. The petitioner also submitted that it has incurred estimated expenditure of ₹76811 lakh (as on 1.9.2011) whereas the tariff was claimed based on the earlier apportioned cost of ₹41444 lakh and accordingly the petitioner is raising the transmission charges which is not only affecting the cash flow of the petitioner but also accumulating the arrears of the beneficiaries. The petitioner requested that the transmission charges based on the revised estimate be allowed.

28. PSPCL submitted that the total cost escalation of ₹19740 lakh is in the price variance being ₹6290 lakh, ₹6590 lakh and ₹6860 lakh in Tower steel, Conductor and Erection respectively. This price variation is about 27% of the original approved cost of ₹72100 lakh and about 25% of revised approved cost of ₹76100 lakh. Such high

variation is not justified and the petitioner needs to submit the reasons for such huge variation in the costs. The petitioner should not be allowed to take the advantage of the delay in commissioning the bay and switchgear at Barh end and also claim ₹4456.51 lakh towards IEDC and IDC as well as ₹19740 lakh towards variation in the cost of project.

29. In response, the petitioner has submitted that it has held regular meetings with NTPC on the commissioning status of Barh Sub-station and the petitioner has completed the portion in its scope in time and is claiming tariff on the investment made. The price variation in tower steel, conductor & erection submitted by PSPCL is between original FR cost and the latest completion cost. However, as the instant petition has been filed based on revised cost estimate, the price variation is minimal when compared to the cost of these items as per RCE apportioned cost. The prime reason for increase in cost of various items is due to the award of contract which was made on the basis of various items under the sub-station package. No bids were received from different vendors through domestic/global bidder. The petitioner also submitted that the award was made to the lowest bidder. The item wise comparison of different items under the turnkey package with respective cost estimates may not lead to appropriate result since the actual price solely depends on how the bifurcation of the total price has been made by the vendor while quoting for different items under complete turkey package. Moreover, the total completion cost for Barh-Balia transmission project is within the RCE approved cost. The petitioner has also

submitted that as the issue of date of commercial operation is pending before the Supreme Court and it will approach its Board for further revision of RCE, if required.

30. We have considered the submissions of the respondents and the petitioner. There is cost over-run in respect of the instant assets even after RCE. The capital cost of the transmission line is restricted to the RCE of ₹73594 lakh. This approach has been upheld by the Appellate Tribunal for Electricity in its order dated 28.11.2013 in Appeal No. 165 of 2012, and subsequently the Commission, vide its order dated 18.2.2014 in Petition No. 216/TT/2012, has considered the apportioned approved cost of individual asset for restricting the capital expenditure due to cost over-run for the purpose of tariff determination. The same approach has been adopted in the present case and capital expenditure has been restricted to apportioned approved cost. The petitioner is at liberty to approach the Commission, if there is any further revision of RCE along with the detailed justification for cost variation submitted by the petitioner to its Board of Directors to arrive at RCE at the time of truing-up petition.

Time Over-run

31. The investment approval of the transmission system was accorded by the Ministry of Power vide letter dated 12.12.2005. As per investment approval, the transmission asset was scheduled to be commissioned within 45 months i.e. by October, 2009 from the date of investment approval in a progressive manner matching with the best effort commissioning schedule of three generation units of

Barh Power Project being implemented by NTPC. Thus, the scheduled commissioning works out to be 12.9.2009 say 1.10.2009. The date of commercial operation of the instant asset as approved in para 9 of the order is 1.9.2011. Thus, there is a time over-run of 23 months in commissioning of the asset.

32. PSPCL in its reply has submitted that the petitioner is not entitled to IEDC amounting to ₹494.23 lakh and IDC amounting to ₹3965.28 lakh (totaling to ₹4459.51 lakh) as the same is on account of the delay in establishing the bay and switch gear at Barh end and is not recoverable from the beneficiaries. The delay has been caused either by the petitioner or by NTPC. The beneficiaries cannot be penalized for any delay occasioned on account of the petitioner or NTPC. The petitioner was responsible to take care of this commercial interest and should claim the same from NTPC.

33. We have considered the submissions made by the petitioner and the respondents. The instant transmission assets were scheduled to be commissioned on 1.10.2009 as per the Investment Approval dated 12.12.2005 and they were commissioned on 1.9.2011 after a time over-run of 23 months. The Commission vide order dated 29.4.2011 in Petition No. 267/2010 has condoned the delay of 9 months from 1.10.2009 to 30.6.2010. With regards to delay from 1.7.2010 to 31.8.2011, it is observed that in the 15th NRPC meeting held on 24.12.2009, it was agreed by the constituents of NR for commissioning both poles of the transmission line in March, 2010 and December, 2010. The relevant extract of the minutes of the meeting is as under:-

"**C.21 Commissioning of Balia-Bhiwadi HVDC Bipole and Barh-Balia 400 kV D/C line of Barh-I Transmission System**

TCC Deliberation

MS, NRPC informed about the agenda of POWERGRID regarding commissioning of Balia-Bhiwadi HVDC Bipole and Barh – Balia 400 kV D/C line of Barh-I Transmission System.

Representative of POWERGRID informed that Pole-I of the HVDC bi-pole would be commissioned in March, 2010 & 2nd pole during December 2010. Further, Barh-Balia 400 kV D/c and Bhiwadi – Moga 400 kV D/c line would also be ready for commissioning.

With commissioning of this transmission scheme, the transmission corridor between Eastern part of Northern Region to Western part of Northern Region would be strengthened and would facilitate transfer of additional power over East-West corridor in Northern Region. It was further informed that many generation projects in Eastern Region like Kahalgaon-II (unit-3) & Farakka-III of NTPC, Mejia Extn. & Maithon RB generation projects of DVC would likely to be commissioned during 2010. For Northern Region which had been facing acute shortages of power and requiring large import of power from ER and WR, this HVDC bi-pole link would provide additional corridor and bring power directly at the load centres of Northern Region. Due to the control features of HVDC, this transmission link would also help in controlling system parameters by varying power flows.

Representatives of PSEB enquired about the increase in transfer capability with the commissioning of this HVDDC link. NRLDC informed that this link would be equivalent to putting a generating station at the load centre which would be directly connected to major load centres of Northern region. In this way there would be increase in transfer capability which was required to meet the growing power demand of Northern Region.

Representative of POWERGRID informed that at present beyond Balia there was only one major transmission corridor i.e. Balia – Lucknow 400 kV D/C line and under outage of one circuit of this line or under outage of one pole of Rihand – Dadri HVDC system, there would be power transfer constraints. Accordingly, these transmission elements would enable transfer of additional power from Eastern region insecure and reliable manner.

Representative of HVPNL stated that this scheme was agreed for Barh-I generation and this should be taken up as generation associated scheme. In this regard POWERGRID informed that this transmission scheme was evolved and agreed for Barh-I as well as for other Eastern Region projects.

After deliberations it was agreed that the scheme would provide additional corridor for power transfer from ER to NR and accordingly it was decided that POWERGRID should go ahead with the commissioning of these links."

34. Accordingly, the petitioner completed its portion of the work on 1.7.2010. However, the transmission line could not be put into use on account of the non-readiness of the switchyard of NTPC at Barh end and non-commissioning of the generation assets by NTPC. The petitioner has not submitted documents to substantiate its claim of regular co-ordination done with NTPC with regard to implementation of associated bays matching with the line. The petitioner is advised, in future to co-ordinate implementation of associated bays at both the ends on regular basis to ensure bays are ready and matching with commissioning of line. As per the Indemnification Agreement entered into by the petitioner with NTPC, the Zero Date was 1.10.2009 and if one party is ready with its assets and the other party is not ready, the party which is not ready with its assets will indemnify the other party for a period of six months. Though zero date has not been reset by the parties, it will be reckoned from the date when one party is ready for commercial operation of the asset. Accordingly, we are of the view that NTPC should bear the IDC and IEDC for a period of six months from 1.7.2010 i.e. from 1.7.2010 to 31.12.2010. The balance period of this time over-run is condoned and IDC & IEDC for this period shall be capitalised.

Initial Spares

35. The petitioner has claimed initial spares of ₹407.86 lakh and ₹20.99 lakh pertaining to transmission line and sub-station respectively, which are within the norms specified in the 2009 Tariff Regulations and are accordingly allowed.

Additional Capital Expenditure

36. Clause (1) of Regulation 9 of the 2009 Tariff Regulations provides as under:-

> "Additional Capitalisation: (1) The capital expenditure incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:
>
> (i) Undischarged liabilities;
> (ii) Works deferred for execution;
> (iii) Procurement of initial capital Spares within the original scope of work, subject to the provisions of Regulation 8;
> (iv) Liabilities to meet award of arbitration or for compliance of the order or decree of a court; and
> (v) Change in Law:"

37. Clause (11) of Regulation 3 of Tariff Regulations defines "cut-off" date as under:-

> "cut-off date" means 31st March of the year closing after 2 years of the year of commercial operation of the project, and in case the project is declared under commercial operation in the last quarter of the year, the cut-off date shall be 31st March of the year closing after 3 years of the year of commercial operation".

38. Accordingly, the cut-off date for the transmission asset is 31.3.2014.

39. The additional capital expenditure claimed by petitioner is ₹300.70 lakh and ₹400.00 lakh during 2012-13 and 2013-14 respectively. BRPL has submitted that the projected additional capital expenditure claimed by the petitioner after date of commercial operation should be duly certified by the Auditors. However, as discussed in para 24 of this order, the projected additional capital expenditure claimed in respect of the instant transmission asset is not allowed as the cost is restricted to RCE as on the date of commercial operation.

DEBT EQUITY RATIO:

40. Regulation 12 of the 2009 Tariff Regulations provides as under:-

> "12. **Debt-Equity Ratio**. (1) For a project declared under commercial operation on or after 1.4.2009, if the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan:
> Provided that where equity actually deployed is less than 30% of the capital cost, the actual equity shall be considered for determination of tariff:
>
> Provided further that the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment.
>
> **Explanation.-** The premium, if any, raised by the generating company or the transmission licensee, as the case may be, while issuing share capital and investment of internal resources created out of its free reserve, for the funding of the project, shall be reckoned as paid up capital for the purpose of computing return on equity, provided such premium amount and internal resources are actually utilised for meeting the capital expenditure of the generating station or the transmission system.
>
> (2) In case of the generating station and the transmission system declared under commercial operation prior to 1.4.2009, debt-equity ratio allowed by the Commission for determination of tariff for the period ending 31.3.2009 shall be considered.
>
> (3) Any expenditure incurred or projected to be incurred on or after 1.4.2009 as may be admitted by the Commission as additional capital expenditure for determination of tariff, and renovation and modernisation expenditure for life extension shall be serviced in the manner specified in clause (1) of this regulation."

41. As per Form-13 submitted by the petitioner along with affidavit dated 18.11.2013, the actual loans during the financial year 2011-12 is 65.66% which implies balance 34.34% is funded through equity. As provided under Clause (3) of Regulation 12 of the 2009 Tariff Regulations, the equity has been restricted to 30%.

42. The details of the Debt: Equity Ratio as on the date of commercial operation and 31.3.2014 considered for the purpose of tariff determination is as under:-

(₹ in lakh)

Particulars	Amount	(%)
Debt	51515.80	70.00

Equity	22078.20	30.00
Total	**73594.00**	**100.00**

RETURN ON EQUITY

43. Regulation 15 of the 2009 Tariff Regulations provides for working out return on equity as under:-

> "15. (1) Return on equity shall be computed in rupee terms, on the equity base determined in accordance with regulation 12.
>
> (2) Return on equity shall be computed on pre-tax basis at the base rate of 15.5% for thermal generating stations, transmission system and run of the river generating station, and 16.5% for the storage type generating stations including pumped storage hydro generating stations and run of river generating station with pondage and shall be grossed up as per clause (3) of this regulation:
>
> Provided that in case of projects commissioned on or after 1st April, 2009, an additional return of 0.5% shall be allowed if such projects are completed within the timeline specified in **Appendix-II**:
>
> Provided further that the additional return of 0.5% shall not be admissible if the project is not completed within the timeline specified above for reasons whatsoever.
>
> (3) The rate of return on equity shall be computed by grossing up the base rate with the Minimum Alternate/Corporate Income Tax Rate for the year 2008-09, as per the Income Tax Act, 1961, as applicable to the concerned generating company or the transmission licensee, as the case may be:
>
> (4) Rate of return on equity shall be rounded off to three decimal points and be computed as per the formula given below:
>
> Rate of pre-tax return on equity = Base rate / (1-t)
>
> Where t is the applicable tax rate in accordance with clause (3) of this regulation.
>
> (5) The generating company or the transmission licensee as the case may be, shall recover the shortfall or refund the excess Annual Fixed charge on account of Return on Equity due to change in applicable Minimum Alternate/ Corporate Income Tax Rate as per the Income Tax Act, 1961 (as amended from time to time) of the respective financial year directly without making any application before the Commission;
>
> Provided further that Annual Fixed charge with respect to the tax rate applicable to the generating company or the transmission licensee, as the case may be, in line

with the provisions of the relevant Finance Acts of the respective financial year during the tariff period shall be trued up in accordance with Regulation 6 of these regulations".

44. The petitioner's prayer to recover the shortfall or refund the excess Annual Fixed Charges, on account on return on equity due to change in applicable Minimum Alternate Tax/Corporate Income Tax rate as per the Income Tax Act, 1961 of the respective financial year directly without making any application before the Commission shall be dealt under Regulation 15(5). Return on Equity has been computed @ 17.481% p.a on average equity as per Regulation 15 of the 2009 Tariff Regulations.

45. The return on equity has been computed as under:-

(₹ in lakh)

Particulars	**2011-12 (pro-rata)**	**2012-13**	**2013-14**
Opening Equity	22078.20	22078.20	22078.20
Addition due to Additional Capitalisation	-	-	-
Closing Equity	22078.20	22078.20	22078.20
Average Equity	22078.20	22078.20	22078.20
Return on Equity (Base Rate)	15.50%	15.50%	15.50%
Tax rate for the year 2008-09 (MAT)	11.330%	11.330%	11.330%
Rate of Return on Equity (Pre Tax)	17.481%	17.481%	17.481%
Return on Equity (Pre Tax)	**2251.37**	**3859.49**	**3859.49**

INTEREST ON LOAN

46. Regulation 16 of the 2009 Tariff Regulations provides that;

"16. (1) The loans arrived at in the manner indicated in regulation 12 shall be considered as gross normative loan for calculation of interest on loan.

(2) The normative loan outstanding as on 1.4.2009 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2009 from the gross normative loan.

(3) The repayment for the year of the tariff period 2009-14 shall be deemed to be equal to the depreciation allowed for that year:
(4) Notwithstanding any moratorium period availed by the generating company or the transmission licensee, as the case may be the repayment of loan shall be considered from the first year of commercial operation of the project and shall be equal to the annual depreciation allowed,

(5) The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio at the beginning of each year applicable to the project:

Provided that if there is no actual loan for a particular year but normative loan is still outstanding, the last available weighted average rate of interest shall be considered:

Provided further that if the generating station or the transmission system, as the case may be, does not have actual loan, then the weighted average rate of interest of the generating company or the transmission licensee as a whole shall be considered.

(6) The interest on loan shall be calculated on the normative average loan of the year by applying the weighted average rate of interest.

(7) The generating company or the transmission licensee, as the case may be, shall make every effort to re-finance the loan as long as it results in net savings on interest and in that event the costs associated with such re-financing shall be borne by the beneficiaries and the net savings shall be shared between the beneficiaries and the generating company or the transmission licensee, as the case may be, in the ratio of 2:1.

(8) The changes to the terms and conditions of the loans shall be reflected from the date of such re-financing.

(9) In case of dispute, any of the parties may make an application in accordance with the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, as amended from time to time, including statutory re-enactment thereof for settlement of the dispute:

Provided that the beneficiary or the transmission customers shall not withhold any payment on account of the interest claimed by the generating company or the transmission licensee during the pendency of any dispute arising out of re-financing of loan."

47. The interest on loan has been worked out as detailed below:-

a) Gross amount of loan, repayment of instalments and rate of interest on loan have been considered as per the affidavit dated 18.11.2013;

b) The repayment for the tariff period 2009-14 has been considered to be equal to the depreciation allowed for that period;

c) Weighted average rate of interest on actual average loan worked out as per (a) above is applied on the notional average loan during the year to arrive at the interest on loan.

48. The detailed calculations in support of the weighted average rate of interest on loan are attached at Annexure to this order.

49. The interest on loan has been calculated on the basis of prevailing rate of actual loan available as on 1.4.2009. Any change in rate of interest subsequent to 1.4.2009 will be considered at the time of truing up.

50. Detail of the interest on normative loan is as follows:-

(₹ in lakh)

Particulars	**2011-12 (pro-rata)**	**2012-13**	**2013-14**
Gross Normative Loan	51515.80	51515.80	51515.80
Cumulative Repayment upto Previous Year	-	2267.01	6153.31
Net Loan-Opening	51515.80	49248.79	45362.49
Addition due to Additional Capitalisation	-	-	-
Repayment during the year	2267.01	3886.30	3886.30
Net Loan-Closing	49248.79	45362.49	41476.20
Average Loan	50382.30	47305.64	43419.35
Weighted Average Rate of Interest on Loan	7.6655%	7.6299%	7.5639%
Interest	**2252.86**	**3609.37**	**3284.21**

DEPRECIATION

51. Regulation 17 of the 2009 Tariff Regulations provides for computation of depreciation in the following manner:-

> "17. (1) The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission.
>
> (2) The salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the capital cost of the asset.
>
> Provided that in case of hydro generating stations, the salvage value shall be as provided in the agreement signed by the developers with the State Government for creation of the site:
>
> Provided further that the capital cost of the assets of the hydro generating station for the purpose of computation of depreciable value shall correspond to the percentage of sale of electricity under long-term power purchase agreement at regulated tariff.
>
> (3) Land other than the land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset.
>
> (4) Depreciation shall be calculated annually based on Straight Line Method and at rates specified in Appendix-III to these regulations for the assets of the generating station and transmission system:
> Provided that, the remaining depreciable value as on 31st March of the year closing after a period of 12 years from date of commercial operation shall be spread over the balance useful life of the assets.
>
> (5) In case of the existing projects, the balance depreciable value as on 1.4.2009 shall be worked out by deducting the cumulative depreciation as admitted by the Commission up to 31.3.2009 from the gross depreciable value of the assets.
>
> (6) Depreciation shall be chargeable from the first year of commercial operation. In case of commercial operation of the asset for part of the year, depreciation shall be charged on pro rata basis."

52. Clause 17 (4) of the 2009 Tariff Regulations provides that depreciation shall be calculated annually based on Straight Line Method and at rates specified in Appendix-III to these regulations for the assets of the generating station and transmission system. It further provides that the remaining depreciable value as on

31st March of the year closing after a period of 12 years from date of commercial operation shall be spread over the balance useful life of the asset. The transmission assets in the instant petition have been considered to have been put on commercial operation as on 1.9.2011 and accordingly will complete 12 years beyond 2013-14. Accordingly, the depreciation has been calculated as follows:-

(₹ in lakh)

Particulars	**2011-12 (pro-rata)**	**2012-13**	**2013-14**
Gross Block as per last order	73594.00	73594.00	73594.00
Projected Additional Capitalization	-	-	-
Closing Gross Block	73594.00	73594.00	73594.00
Average Gross Block	73594.00	73594.00	73594.00
Rate of Depreciation	5.2807%	5.2807%	5.2807%
Depreciable Value	66234.60	66234.60	66234.60
Remaining Depreciable Value	66234.60	63967.59	60081.29
Depreciation	**2267.01**	**3886.30**	**3886.30**

OPERATION AND MAINTENANCE EXPENSES (O&M Expenses)

53. Clause (g) of Regulation 19 of the 2009 Tariff Regulations prescribes norms for O&M Expenses for transmission system based on type of sub-stations and the transmission line. Norms specified in respect of O&M Expenses for assets covered in the petition are as follows:-

Elements	**2009-10**	**2010-11**	**2011-12**	**2012-13**	**2013-14**
400 kV D/C, quad conductor transmission line (₹ lakh/km)	0.924	0.994	1.051	1.111	1.174
400 kV bays (₹ lakh per bay)	52.40	55.40	58.57	61.92	65.46

54. Accordingly, the petitioner's entitlement to O & M Expenses has been worked out as under:-

(₹ in lakh)

Elements	2011-12 (pro-rata)	2012-13	2013-14
400 kV D/C, quad conductor transmission line-242.664 km	148.77	269.60	284.89
2 nos. 400 kV bays, Balia Sub-station	68.33	123.84	130.92
Total	**217.10**	**393.44**	**415.81**

55. The petitioner has submitted that O&M Expenses for the year 2009-14 had been arrived at on the basis of normalized actual O&M Expenses during the period 2003-04 to 2007-08 and by escalating it by 5.72% per annum for arriving at norms for the years of tariff period. The wage hike of 50% on account of pay revision of the employees of public sector undertaking has also been considered while calculating the O&M Expenses for the tariff period 2009-14. The petitioner has further submitted that it may approach the Commission for suitable revision in norms for O&M Expenses in case the impact of wage hike with effect from 1.1.2007 is more than 50%. BRPL has submitted that any further increase in the employee cost due to wage revision should be taken care of by the petitioner by improving its productivity levels.

56. While specifying the norms for the O & M Expenses, the Commission has in the 2009 Tariff Regulations, given effect to impact of pay revision by factoring 50% on account of pay revision of the employees of PSUs after extensive consultation with the stakeholders, as one time compensation for employee cost. We do not see

any reason why the admissible amount is inadequate to meet the requirement of the employee cost. In this order, we have allowed O&M Expenses as per the existing norms.

INTEREST ON WORKING CAPITAL

57. The petitioner is entitled to claim interest on working capital as per the 2009 Tariff Regulations. The components of the working capital and the petitioner's entitlement to interest thereon are discussed as follows:-

(i) Receivables

As per Regulation 18(1) (c) (i) of the 2009 Tariff Regulations, receivables as a component of working capital will be equivalent to two months' of fixed cost. The petitioner has claimed the receivables on the basis of 2 months' of annual transmission charges claimed in the petition. In the tariff being allowed, receivables have been worked out on the basis of 2 months' transmission charges.

(ii) Maintenance spares

Regulation 18 (1) (c) (ii) of the 2009 Tariff Regulations provides for maintenance spares @ 15% per annum of the O & M expenses as part of the working capital. The value of maintenance spares has accordingly been worked out.

(iii) O & M expenses

Regulation 18(1) (c) (iii) of the 2009 Tariff Regulations provides for operation and maintenance expenses for one month to be included in the working capital. The petitioner has claimed O&M expenses for 1 month of the respective year. This has been considered in the working capital.

(iv) Rate of interest on working capital

In accordance with clause (3) of Regulation 18 of the 2009 Tariff Regulations, as amended, rate of interest on working capital shall be on normative basis and in case of transmission assets declared under commercial operation after 1.4.2009 shall be equal to State Bank of India Base Rate as applicable on 1st April of the year of commercial operation plus 350 bps. State Bank of India base interest rate on 1.4.2011 was 8.25%. Therefore, interest rate of 11.75% has been considered in respect of the transmission asset. The interest on working capital for the asset covered in the petition has been worked out accordingly.

58. The necessary computation in support of the interest on working capital is as follows:-

(₹ in lakh)

Particulars	2011-12 (pro-rata)	2012-13	2013-14
Maintenance Spares	55.83	59.02	62.37
O & M expenses	31.01	32.79	34.65
Receivables	2038.28	1999.05	1947.68
Total	**2125.12**	**2090.85**	**2044.70**
Rate of Interest	11.75%	11.75%	11.75%
Interest	**145.66**	**245.67**	**240.25**

TRANSMISSION CHARGES

59. The learned counsel for PSPCL submitted that in the absence of stay, the judgment of APTEL was to be implemented and as per Regulation 79(2) of the Conduct of Business Regulations, 1999, no utility can charge the tariff for inter-State Transmission System without the approval of the Commission. As the tariff determined by the Commission has been set aside by APTEL the petitioner cannot charge any tariff until the tariff is re-determined as per the judgement of APTEL. The learned counsel of BRPL also submitted that the order of the Commission has been set aside by the Tribunal and the petitioner is not entitled to charge any transmission charges, but the petitioner is levying the transmission charges under the PoC regime.

60. The Commission during one of the hearings has observed that as the order of the Commission has been set aside by the Tribunal, the petitioner should not charge any transmission charges for the subject asset from the beneficiaries. The petitioner was directed to confirm the same. However, the petitioner has not responded on this issue. It has been observed that the transmission charges approved vide order dated 29.4.2011 have been included in PoC calculation and have not been removed from PoC computation till date despite the direction of the Commission. The petitioner should have excluded the transmission charges from the computation of PoC charges. The Commission takes a serious note of this. The petitioner is reprimanded and is directed to reimburse the transmission charges collected from beneficiaries from 1.7.2010 to 30.8.2011 along with interest as provided under the 2009 Tariff Regulations within a period of 3 months from the date of issue of this order.

61. The transmission charges allowed for the transmission assets are as under:-

(₹ in lakh)

Particulars	**2011-12 (pro-rata)**	**2012-13**	**2013-14**
Depreciation	2267.01	3886.30	3886.30
Interest on Loan	2252.86	3609.37	3284.21
Return on Equity	2251.37	3859.49	3859.49
Interest on Working Capital	145.66	245.67	240.25
O & M Expenses	217.10	393.44	415.81
Total	**7133.99**	**11994.28**	**11686.06**

FILING FEE AND THE PUBLICATION EXPENSES

62. The petitioner has sought reimbursement of fee paid by it for filing the petition and publication expenses. The BRPL submitted that the filling fee shall be governed as per the Commission's order. The petitioner has clarified that reimbursement of expenditure has been claimed in terms of Regulation 42 of the 2009 Tariff Regulations. The petitioner shall be entitled for reimbursement of the filing fees and publication expenses in connection with the present petition, directly from the beneficiaries on *pro-rata* basis in accordance with Regulation 42 A (1) (a) of the 2009 Tariff Regulations.

LICENCE FEE

63. The petitioner has submitted that the petitioner may be allowed to bill and recover license fee separately from the respondents as provided in the 2009 Tariff Regulations. The petitioner shall be entitled for reimbursement of licence fee in accordance with Regulation 42A (1) (b) of the 2009 Tariff Regulations.

SERVICE TAX

64. The petitioner has made a prayer to be allowed to bill and recover the service tax on transmission charges separately from the respondents, if it is subjected to such service tax in future. The BRPL has objected to recovery of service tax from the beneficiaries in future as petitioner has clarified that if notification regarding granting of exemption to transmission service is withdrawn at a later date, the beneficiaries shall have to share the service tax paid by the petitioner. We consider petitioner's prayer pre-mature and accordingly this prayer is rejected.

SHARING OF TRANSMISSION CHARGES

65. The billing, collection and disbursement of the transmission charges shall be governed by the provision of Central Electricity Regulatory Commission (Sharing of Inter-state Transmission Charges and Losses) Regulations, 2010 as amended from time to time.

66. This order disposes of Petition Nos. 267/2010 and 227/TT/2013.

sd/-	**sd/-**	**sd/-**
(A.S. Bakshi)	**(A.K. Singhal)**	**(Gireesh B. Pradhan)**
Member	**Member**	**Chairperson**

ANNEXURE

(₹ in lakh)

	CALCULATION OF WEIGHTED AVERAGE RATE OF INTEREST ON LOAN			
	Details of Loan	**2011-12**	**2012-13**	**2013-14**
1	**Bond XXII**			
	Gross loan opening	**458.00**	**458.00**	**458.00**
	Cumulative Repayment upto DOCO/previous year	**38.17**	**76.33**	**114.50**
	Net Loan-Opening	419.83	381.67	343.50
	Additions during the year	0.00	0.00	0.00
	Repayment during the year	38.17	38.17	38.17
	Net Loan-Closing	381.67	343.50	305.33
	Average Loan	400.75	362.58	324.42
	Rate of Interest	8.68%	8.68%	8.68%
	Interest	34.79	31.47	28.16
	Rep Schedule	12 Equal Annual Instalments from 07.12.2010		
2	**Bond XXVI**			
	Gross loan opening	**20927.00**	**20927.00**	**20927.00**
	Cumulative Repayment upto DOCO/previous year	**0.00**	**1743.92**	**3487.83**
	Net Loan-Opening	20927.00	19183.08	17439.17
	Additions during the year	0.00	0.00	0.00
	Repayment during the year	1743.92	1743.92	1743.92
	Net Loan-Closing	19183.08	17439.17	15695.25
	Average Loan	20055.04	18311.13	16567.21
	Rate of Interest	9.30%	9.30%	9.30%
	Interest	1865.12	1702.93	1540.75
	Rep Schedule	12 Equal Annual Instalments from 07.03.2012		
3	**Bond XXI**			
	Gross loan opening	**153.00**	**153.00**	**153.00**
	Cumulative Repayment upto DOCO/previous year	**12.75**	**25.50**	**38.25**
	Net Loan-Opening	140.25	127.50	114.75
	Additions during the year	0.00	0.00	0.00
	Repayment during the year	12.75	12.75	12.75
	Net Loan-Closing	127.50	114.75	102.00
	Average Loan	133.88	121.13	108.38
	Rate of Interest	8.73%	8.73%	8.73%
	Interest	11.69	10.57	9.46
	Rep Schedule	12 Equal Annual Instalments from 11.10.2010		
4	**Bond XXV**			
	Gross loan opening	**10530.00**	**10530.00**	**10530.00**
	Cumulative Repayment upto DOCO/previous year	**877.50**	**877.50**	**1755.00**
	Net Loan-Opening	9652.50	9652.50	8775.00
	Additions during the year	0.00	0.00	0.00
	Repayment during the year	0.00	877.50	877.50

	Net Loan-Closing	9652.50	8775.00	7897.50
	Average Loan	9652.50	9213.75	8336.25
	Rate of Interest	10.10%	10.10%	10.10%
	Interest	974.90	930.59	841.96
	Rep Schedule	12 Equal Annual Instalments from 12.06.2011		
5	**Bond XIX**			
	Gross loan opening	**457.00**	**457.00**	**457.00**
	Cumulative Repayment upto DOCO/previous year	**76.17**	**76.17**	**114.25**
	Net Loan-Opening	380.83	380.83	342.75
	Additions during the year	0.00	0.00	0.00
	Repayment during the year	0.00	38.08	38.08
	Net Loan-Closing	380.83	342.75	304.67
	Average Loan	380.83	361.79	323.71
	Rate of Interest	9.25%	9.25%	9.25%
	Interest	35.23	33.47	29.94
	Rep Schedule	12 Equal Annual Instalments from 24.07.2010		
6	**Bond XXIV**			
	Gross loan opening	**5463.00**	**5463.00**	**5463.00**
	Cumulative Repayment upto DOCO/previous year	**455.25**	**910.50**	**1365.75**
	Net Loan-Opening	5007.75	4552.50	4097.25
	Additions during the year	0.00	0.00	0.00
	Repayment during the year	455.25	455.25	455.25
	Net Loan-Closing	4552.50	4097.25	3642.00
	Average Loan	4780.13	4324.88	3869.63
	Rate of Interest	9.95%	9.95%	9.95%
	Interest	475.62	430.33	385.03
	Rep Schedule	12 Equal Annual Instalments from 26.03.2011		
7	**IBRD III**			
	Gross loan opening	**11984.93**	**11984.93**	**11984.93**
	Cumulative Repayment upto DOCO/previous year	**0.00**	**583.22**	**1191.90**
	Net Loan-Opening	11984.93	11401.71	10793.03
	Additions during the year	0.00	0.00	0.00
	Repayment during the year	583.22	608.68	635.05
	Net Loan-Closing	11401.71	10793.03	10157.98
	Average Loan	11693.32	11097.37	10475.50
	Rate of Interest	1.82%	1.82%	1.82%
	Interest	212.82	201.97	190.65
	Rep Schedule	30 Half yearly Instalments from 15.09.2011		
	Total Loan			
	Gross loan opening	**49972.93**	**49972.93**	**49972.93**
	Cumulative Repayment upto DOCO/previous year	1459.83	4293.13	8067.48
	Net Loan-Opening	48513.10	45679.80	41905.45

	Additions during the year	0.00	0.00	0.00
	Repayment during the year	2833.30	3774.35	3800.72
	Net Loan-Closing	45679.80	41905.45	38104.73
	Average Loan	47096.45	43792.62	40005.09
	Rate of Interest	**7.6655%**	**7.6299%**	**7.5639%**
	Interest	**3610.16**	**3341.33**	**3025.96**