CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Petition No. 102/TT/2018
along with 60/IA/2018

Coram:
Shri P. K. Pujari, Chairperson
Dr. M. K. Iyer, Member

Date of Order: 02.05.2019

In the matter of:

Determination of tariff of two bays at Gandhar Switchyard owned by NTPC for the period i.e. 23.2.2013 to 31.3.2014 under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 and for the period 1.4.2014 to 31.3.2019 under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 read with Regulation 86 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999

In the matter of:

Essar Power Transmission Company Limited
Lower Ground Floor, Hotel Treebo Conclave Riviera
A-20, Kailash Colony,
New Delhi 110048 **……Petitioner**

Vs

1. NTPC Limited
   NTPC Bhawan,
   SCOPE Complex, Institutional Area, Lodhi Road,
   New Delhi – 110003

2. Essar Steel India Limited
   27th KM on Surat-Hazira Road,
   Hazira, District-Surat -394270

3. Energy Department
   Government of Madhya Pradesh
   Mantralaya 435, Vallabh Bhavan,
   Bhopal 462004

4. Essar Power M.P Limited
   11th Floor, 11 KK Marg,
   Opp Racecourse,
   Mahalaxmi, Mumbai - 400 034
   Maharashtra

5. Power Grid Corporation of India Limited
Saudamini, Plot No.2, Sector 29,
Near IFFCO Chowk,
Gurgaon (Haryana) – 122001

6. Western Regional Power Committee
F-3, MIDC Area, Marol, Opp. SEEPZ,
Central Road, Andheri (East),
Mumbai - 400 093

7. Power Systems Operation Corporation Limited
B-9, Qutab Institutional Area,
Katwaria Sarai,
New Delhi-110016 …...**Respondents**

Petitioner : Shri Alok Shankar, Advocate, EPTCL
Ms. Shruti Verma, EPTCL

Respondents : Shri Ravi Shankar, Advocate, MPPMCL
Shri Mukesh Kori, Advocate MPPMCL
Shri Shyam Kumar, NTPC

ORDER

The present Petition has been filed by the Petitioner, Essar Power Transmission Company Limited. ("EPTCL") for approval of tariff of two bays at Gandhar Switchyard owned by NTPC for the period i.e. 23.2.2013 to 31.3.2019 in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as "2009 Tariff Regulations") and Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as "2014 Tariff Regulations") for respective tariff period.

2. The Petitioner has made the following prayer:-

"(i) Admit the application for determination of transmission tariff (annual fixed cost) for the 2 x 400 kV Bays at Jhanor Gandhar GPS of NTPC Ltd which form part of the inter-state transmission system and are already under COD.

(ii) Determine the Annual fixed cost and transmission tariff/ provisional transmission tariff for the 2 x 400 kV Bays at Jhanor Gandhar GPS of NTPC Ltd for the period upto FY 2018-19 from the date of commissioning of the asset i.e. 23.2.2013.

(iii) Approve the reimbursement of service tax paid by the petitioner to NTPC on the monthly payments of usage charges of the assets in the petition for the period from COD of the assets to June 2016 of Rs 162.89 lakh.

(iv) Approve the reimbursement of expenditure by the beneficiaries towards petition filing fee, and expenditure on publishing of notices in newspapers in terms of Regulation 52 of the 2014 Tariff Regulation.

(v) Condone any inadvertent omissions, errors, short comings and permit the petitioner to add! Change/ modify/ alter this filing and make further submissions as may be required at a future date; and.

(vi) Pass such order and further orders as are deemed fit and proper in the facts and circumstances of the case."

3. The Petitioner has prayed for the tariff from date of commercial operation to 31.3.2019, which covers two tariff blocks and the petition has been filed in compliance of Commission order dated 15.6.2016 in Petition No. 173/TT/2013 which was after expiry of tariff block 2009-14. The Petitioner has submitted Auditor Certificate for actual cost incurred up to 31.3.2014. Hence, the instant petition has been considered as true up of tariff for 2009-14 tariff period and grant of final tariff for 2014-19 tariff period.

4. The scope of work as per the license granted to the Petitioner vide order dated 10.4.2008 and 15.9.2009 in Petition No. 157/2007 is as follows:-

A. <u>Transmission lines</u>

i. 400 kV D/C (quad conductor) transmission line from Mahan to Sipat Pooling Sub-station
ii. LILO of existing 400 kV S/C Vindyanchal-Korba transmission line of Powergrid at Mahan
iii. 400 kV D/C (twin conductor) transmission line from Gandhar NTPC switch yard to Hazira

B. <u>Sub-stations</u>

i. 3X500 MVA, 400/220kV sub-station at Hazira
ii. 2x50 MVAR line reactors at Sipat Pooling Sub-station
iii. 2x50 MVAR line reactors at Mahan

iv. 1x80 MVAR, 420 kV Switchable bus reactors at Mahan TPS along with its associated 400 kV bay
v. 2 Nos. 400 kV line bays at Sipat Pooling Sub-station
vi. 2 Nos. 400 kV line bays at Gandhar (NTPC) Switchyard
vii. 4 Nos. 400 kV line bays at Mahan TPS.

The instant petition covers 2 Nos. 400 kV bays at Gandhar (NTPC) switchyard (hereinafter referred to as "transmission assets").

Brief facts

5. The brief facts of the case are as following:-

a) The aforementioned 400 kV bays are the part of license granted to EPTCL vide order dated 10.4.2008 in Petition No. 157/2007 subsequently modified vide order dated 15.9.2009. These bays were proposed to be installed within NTPC station at Gandhar. As per the Commercial Agreement dated 11.2.2010 entered into between EPTCL and NTPC, the bays would be owned, controlled and maintained by NTPC at Gandhar Switchyard and EPTCL would pay the annual transmission charges to NTPC as per Central Electricity Regulatory Commission Tariff Regulations. As per the said Agreement, the capital cost of the bays as capitalized in the books of accounts of NTPC would be considered for the purpose of calculation of tariff. NTPC constructed two bays at the NTPC Gandhar Switchyard, which were put into commercial operation on 23.2.2013. NTPC had capitalized the instant asset as additional capital expenditure of the existing Generating Station of NTPC (i.e. Jhanor- Gandhar GPS) for which Commission vide order dated 30.3.2017 in Petition No. 326/GT/2014 has approved the tariff for the 2009-14 period and vide order dated 10.04.2017 in Petition No. 325/GT/2014 had approved the tariff for 2014-19 period.

b) EPTCL filed the Tariff Petition No.173/TT/2013 for determination of tariff from

COD to 31.3.2014 and Petition No.111/TT/2015 for truing up of the transmission charges for the assets covered in the licence.

c) On the basis of provisional tariff granted vide order dated 12.9.2013 in Petition No.173/TT/2013, EPTCL was making payment to NTPC for the bays. The Commission vide order dated 15.6.2016 in Petition No.173/TT/2013 and 111/TT/2015 had approved true up tariff for the period up to 31.3.2014 and directed NTPC and EPTCL to jointly file the petition for approval of tariff of two bays at Gandhar Switchyard and observed that on approval of same, EPTCL will recover the same and reimburse to NTPC. After the issue of order dated 15.6.2016 in Petition No. 173/TT/2013 alongwith I.A. No.38/IA/2015 and Petition No. 111/TT/2015, EPTCL stopped payment to NTPC.

d) NTPC filed Review Petition No.55/RP/2016 seeking review of the Commission's order dated 15.6.2016. The Commission vide order dated 30.1.2018 in Review Petition No. 55/RP/2016 directed NTPC to provide the cost of the two bays at Gandhar Switchyard to EPTCL and also directed EPTCL to file a Petition for determination of tariff of the two bays at Gandhar Switchyard within 30 days of issue of the order on the basis of the details of cost furnished by NTPC.

e) Pursuant to the aforesaid directions of the Commission, EPTCL has filed the instant petition based on the capital cost and other details shared by NTPC with it. AFC under Regulation 7(7) of the 2014 Tariff Regulations for the instant assets for the year 2018-19 has been allowed vide order dated 14.11.2018 for including in the POC calculations.

f) Further, NTPC filed Interlocutory Application No. 43/IA/2018 in the instant petition seeking directions to CTU to transfer the money collected through PoC of the two bays at Gandhar to NTPC directly instead of through the Trust and

Retention Account of EPTCL. Taking into consideration that the assets were built by NTPC at its own cost, the Commission directed the CTU, vide order dated 11.6.2018, to make direct payment of the monthly PoC charges of the bays to NTPC till further orders and disposed of I.A. No. 43/IA/2018. The relevant extract of the order is extracted hereunder:-

> "6. We have considered the submissions of NTPC and EPTCL. Though EPTCL has been granted licence for the 2 Nos. of 400 kV bays at Gandhar Jhanoor TPS of NTPC, the two bays have been constructed, financed, owned and maintained by NTPC. NTPC has entered into a bilateral agreement on 11.2.2010 with EPTCL according to which user charges for the bays would be paid by EPTCL computed as per the applicable tariff regulations. Since these bays are assets of NTPC, they have been financed by NTPC and not by the lenders of EPTCL. Therefore, there is no reason to route the tariff of these assets of NTPC through TRA which is the agent of the lenders of EPTCL and has been appointed to protect the interest of the lenders. NTPC has submitted that routing the tariff of these bays through TRA is resulting in delay in getting the usage charges of the bays. Considering the fact that the bays are assets of NTPC and EPTCL has an agreement to pay the usage charges of the bays at the applicable tariff of the Commission and the tariff of the bays shall be determined based on the cost details provided by NTPC from its books of account, we consider it appropriate to issue directions to CTU to make direct payment of the monthly PoC charges to NTPC for the 2 Nos. of 400 kV bays at Jhanoor Gandhar TPS of NTPC till further orders".

6. The transmission license was issued to EPTCL and based on the Commercial Agreement dated 11.2.2010 entered into between EPTCL and NTPC, the bays are owned, controlled and maintained by NTPC at Gandhar Switchyard as part Jhanor Gandhar Gas Power Station. Therefore, the capital cost of the bays was capitalized in the books of accounts of NTPC. As per Tariff Regulations, capital cost and debt-equity ratio are determined based on the capital cost incurred by the licensee and in the same way the tax rate for grossing up of rate of RoE and weighted average rate of interest of actual loan portfolio for servicing the normative loan shall be computed by applying the rates applicable to the concerned transmission licensee. However, the instant case is special in nature where the asset is funded and owned by NTPC but the license was granted to EPTCL. Therefore, in the current petition, we are considering the capital cost pertaining to the instant asset as per books of account of

NTPC duly certified by Auditor. Further, as the asset covered in the instant petition is part of Jhanor Gandhar GPS, the debt-equity ratio, tax rate for grossing up of ROE and WAROI (weighted average rate of interest) of actual loan for servicing interest on normative loan, as applicable to NTPC's Jhanor Gandhar GPS are considered to determine the AFC for the instant asset in view of the peculiar facts of the case. It shall not be considered as a precedent in future.

7. The transmission charges claimed by the petitioner are as under:-

(₹ in lakh)

Particulars	**2012-13 (Pro-rata)**	**2013-14**
Depreciation	74.28	74.98
Interest on Loan	94.54	82.23
Return on Equity	96.83	100.03
Interest on Working Capital	12.96	13.15
O&MExpenses	123.84	130.92
Total	**402.45**	**401.31**

8. The details of the interest on working capital claimed by the petitioner are as under:-

(₹ in lakh)

Particulars	**2012-13 (Pro-rata)**	**2013-14**
Maintenance Spares	18.58	19.64
O&M expenses	10.32	10.91
Receivables	67.00	67.00
Total	**96.00**	**97.00**
Interest (Pro-rata)	12.96	13.15
Rate of Interest	13.50%	13.50%

9. The Petitioner has served the petition on the Respondents and notice of this application has been published in the newspapers in accordance with Section 64 of the Electricity Act, 2003. No comments or suggestions have been received from the general public in response to the notices published by the petitioner under Section 64 of the Electricity Act, 2003. M.P. Power Management Co. Ltd. (MPPMCL), Respondent No.3 has filed its reply vide affidavit dated 25.9.2018. MPPMCL has raised the issue of additional capital expenditure, rate for interest on working capital

and depreciation. The Petitioner has filed rejoinder dated 6.12.2018 to the reply of MPPMCL.

10. Based on the documents available on record and after considering the submission of the parties, we dispose of the claim of the petitioner in the present petition, as stated in the subsequent paragraphs.

11. This order has been issued after considering the petition and affidavits dated 2.7.2018, 17.7.2018, 17.8.2018, 23.11.2018, 6.12.2018 and 4.1.2019 filed by the Petitioner.

12. MPPMCL has submitted that as per Tariff Regulations, tariff can only be determined as a whole for transmission system or transmission line or sub-station and determination of tariff for bays as unit cannot be done in case of transmission system because bays are inseparable part of transmission system but can neither be considered as transmission line or substation. Accordingly, it has stated that present petition is liable to be dismissed and rejected.

13. In response, Petitioner vide affidavit dated 6.12.2018 has submitted that various bays were put together to constitute a sub-station, in other words, a sub-station is nothing but a conglomeration of bays.

14. We have considered the submissions of the Petitioner and MPPMCL. Regulation 4(1)(2) of the 2009 Tariff Regulations provide as under:-

> "(4)…
>
> (1) Tariff in respect of a generating station may be determined for the whole of the generating station or a stage or unit or block of the generating station, and tariff for the transmission system may be determined for the whole of the transmission system or the transmission line or sub-station.

(2) For the purpose of determination of tariff, the capital cost of the project may be broken up into stages and distinct units or blocks, transmission lines and sub-systems forming part of the project, if required:

Regulation 6(1) of the 2014 Tariff Regulations, read as under:

(1) Tariff in respect of a generating station may be determined for the whole of the generating station or stage or generating unit or block thereof, and tariff in respect of a transmission system may be determined for the whole of the transmission system or transmission line or sub-station or communication system forming part of transmission system…

Further, As per Section 2(69), Electricity Act, 2003, sub-station is read as under:

2…

(69) "Sub-station" means a station for transforming or converting electricity for the transmission or distribution thereof and includes transformers, converters, switchgears, capacitors, synchronous condensers, structures, cable and other appurtenant equipment and any buildings used for that purpose and the site thereof."

The 2009 Tariff Regulations and 2014 Tariff Regulations provide for determination of tariff for the whole of the transmission system or elements of a transmission system. Thus, we are unable to agree with the MPPMCL's contention that tariff for two bays cannot be determined separately.

<u>Date of commercial operation</u>

15. The Petitioner has claimed 23.2.2013 as date of commercial operation (COD) for the instant asset i.e. 2 x400 kV Bays at Jhanor Gandhar GPS of NTPC Ltd. In support thereof, the Petitioner has submitted Central Electricity Authority certificate dated 20.12.2012 under Regulation 43 of Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010.

16. From the documents placed on record, it is observed that the 2 nos. 400 kV bays has been constructed by NTPC and for this, the NTPC entered into an commercial Agreement dated 11.2.2010 with EPTCL. It is also observed that Central Electricity Authority inspection for 2 no 400 kV bays at Gandhar GPS was done on

19.12.2012, after completion of erection, commissioning and testing of bay equipment and accordingly the bays were ready for charging and declared to be commissioned with effect from 23.2.2013. As per proviso of Regulation 12(c) of the 2009 Tariff Regulations, tariff for the instant asset has been calculated w.e.f. first day of a calendar month, i.e. 1.3.2013. Regulation 12(c) of the 2009 Tariff Regulations is extracted here below:-

> "c) in relation to the transmission system, the date declared by the transmission licensee from 0000 hour of which an element of the transmission system is in regular service after successful charging and trial operation-
>
> Provided that the date shall be the first day of a calendar month and transmission charge for the element shall be payable and its availability shall be accounted for, from that date."

<u>Time over-run</u>

17. We have considered the submissions made by Petitioner and MPPMCL placed on record. It is observed that, initially, EPTCL vide order dated 10.4.2008 in Petition No. 157/2007 was granted license for 2x400 kV bays at Jhanor Gandhar GPS of NTPC along with other items which was also agreed by NTPC in 9th meeting of WR constituents held on 3.7.2007 at Indore regarding long term access applications. Later, EPTCL and NTPC entered into Agreement dated 11.2.2010, which provided that NTPC would own, construct and maintain the bays and recover the Annual Transmission charges from the Petitioner. Subsequently, EPTCL approached the Commission and the Commission, vide its order dated 15.6.2016 in Petition no. 173/TT/2013 and order dated 30.1.2018 in Petition No. 55/RP/2016 directed EPTCL and NTPC to jointly approach Commission for tariff determination stating that tariff will be determined on the basis of the details of cost furnished by NTPC. It is further observed that against the schedule COD of 1.11.2010, the subject asset has been put into commercial operation on 23.2.2013, i.e. with a delay of 27 months 22 days. However, in the light of peculiar nature of this asset, no useful purpose would be

served going into the details of time over-run in the instant case as agreement with NTPC was reached only in February, 2010. The time over run is, therefore, condoned. Thus, for the purpose of tariff, we shall only go in the assessment of reasonableness of the capital cost after prudence check.

Annual Fixed Cost for 2009-14 Tariff Period

Capital Cost

18. This has been dealt in line with Regulation 7 of the 2009 Tariff Regulations. As mentioned above, the Commission in order dated 30.1.2018 in Review Petition No. 55/RP/2016 directed NTPC to provide the cost of the two bays at Gandhar Switchyard to EPTCL and directed EPTCL to file a Petition for determination of tariff of the asset. NTPC vide affidavit dated 17.7.2018 submitted that feasibility report (FR) was not prepared as it was not a new transmission project for the NTPC, rather it was the switchyard extension work with two bays for the usage of EPTCL. NTPC, in support of approved cost, has submitted the extract from the 205th meeting of the sub-committee of the Board of Directors held on 27.9.2010 (award of contract in respect of 400kV switchyard extension package associated with Jhanor-Gandhar Gas power project). Thus, the approved cost for the instant asset is considered as ₹1416.03 lakh as no FR cost is available. However, consideration of capital cost without FR cost should not be treated as precedence in future. As per Agreement dated 11.2.2010 entered between Petitioner and NTPC, it was agreed that EPTCL will accept the capital cost of these bays as furnished by NTPC duly certified by Auditor. The capital cost as per Auditor Certificate dated 5.6.2018 submitted by NTPC is shown below:-

(₹ in lakh)

Approved cost	Capital cost as on COD	Additional capital expenditure for period 1.4.2013 to 31.3.2014	Total completion cost as on 31.3.2014
1416.03	1409.07	26.65	1435.72

The completion cost as on 31.3.2014 is ₹1435.72 lakh and approved cost is ₹1416.03 lakh. The completion cost exceeds the approved cost. Thus, there is a cost over run in the current asset. The capital cost in the current asset is restricted to approved cost thereby restricting the claimed add cap during 2013-14. The Auditor certificate does not contain the breakup of the hard cost, initial spares IDC and IEDC. The Auditor Certificate mentions that the capital cost is derived as per books of account but the liability details are not mentioned in the certificate. It creates difficulties in reconciliation with the cost and liability given in Form- 4A and Form- 5. Therefore, liability amount mentioned in tariff form 4A i.e. ₹2.34 lakh is relied upon to determine the allowable cost as on COD and add-cap during 2014-19 tariff based on the other available forms.

Initial Spares

19. This has been dealt in line with Regulation 8 of the 2009 Tariff Regulations. The Petitioner has not claimed initial spares in Auditor Certificate. However, in Form-5B submitted vide affidavit dated 17.8.2018, the Petitioner has claimed ₹31.05 lakh as Initial Spares which is within the ceiling limit specified in the 2009 Tariff Regulations. The undischarged liability of ₹2.34 lakh has been reduced from the capital cost as on COD capital cost and has allowed as add-cap during 2014-19 tariff relying upon the other available forms of 2014-19 period. Thus, the capital cost allowed as on COD is ₹1406.73 lakh (i.e. ₹1409.07–₹2.34 lakh).

Additional Capital Expenditure (ACE)

20. The cut-off date for the instant asset is 31.3.2016 as per Regulation 9 of the 2009 Tariff Regulations. The ACE claimed as per Auditor certificate is ₹26.65 lakh for the year 2013-14. The Petitioner in Form 9 has mentioned this capital cost towards balance work (without mentioning the sub-clause of Regulation 9).

21. MPPMCL in its affidavit dated 25.9.2018 has submitted that Petitioner has not provided any proper justifications for additional capitalization claimed for an amount of ₹26.65 lakh. In response, the Petitioner filed its reply dated 6.12.2018 submitted that additional capital expenditure of ₹26.65 lakh pertain to the civil works under original scope of work, which has been already shown in Form-9 of main Petition.

22. We have considered the submissions submitted by Petitioner and Respondent MPPMCL, the add-cap claimed is as per Regulation 9(1) of the 2009 Tariff Regulations. As discussed in capital cost para above, the capital cost has been restricted to approved cost and additional capital expenditure has been reduced by ₹19.69 lakh out of ₹26.65 lakh and allowed add cap for 2013-14 is ₹6.96 lakh. Overall the capital cost reduction is ₹19.69 lakh which is 1.37% of the claimed capital cost of ₹1435.72 lakh. Since the 2009-14 tariff period has already been passed and the cost reduction is 1.37% of the claimed capital cost, the instant petition has been considered as true up petition for the tariff period 2009-14.

Capital cost summary from COD to 31.3.2014

23. The capital cost considered for the purpose of computation of tariff is as follows:-

(₹ in lakh)

Capital cost allowed as COD	Additional Capitalisation 2013-14	Total Estimated Completion Cost up to 31.3.2014
1406.73	6.96	1413.69

Debt-Equity Ratio

24. As discussed above in para 6, the debt-equity ratio of the Jhanor Gandhar GPS has been applied for the instant asset. Commission in order dated 30.3.2017 in Petition No. 326/GT/2014 had approved 70:30 debt-equity ratio for the add-cap of Jhanor Gandhar GPS of NTPC for the year 2012-13 and 2013-14. The same have been considered for the capital cost as on COD and ACE for the year 2013-14.The

details of debt-equity as on dates of commercial operation and 31.3.2014 are as under:-

(₹ in lakh)

Particulars	Capital cost as on COD		Capital cost as on 31.3.2014	
	Amount	**%**	**Amount**	**%**
Debt	984.71	70.00	989.58	70.00
Equity	422.02	30.00	424.11	30.00
Total	**1406.73**	100.00	**1413.69**	100.00

Return on Equity

25. As discussed above in para 6, the tax rate of the Jhanor Gandhar GPS has been applied for the instant asset. The tax rate as considered by Commission in order dated 30.3.2017 in Petition No. 326/GT/2014 for Gandhar GPS of NTPC has been considered for grossing up of the rate of ROE of the instant asset.

Additional ROE

26. The Petitioner has claimed additional ROE in petition however in tariff Form no such additional ROE has been considered while computing the ROE. As discussed above, the instant asset is part of the transmission scope covered in the licence and as per the license order, the scheduled COD of the instant asset is October, 2010 against which the actual commissioning was achieved only on 1.3.2013 with a delay of 28 months. Hence, the claim of additional ROE does not arise to the instant asset. Accordingly, ROE has been disallowed, as under:-

(₹ in lakh)

Particulars	2017-18 (Pro-rata)	2018-19
Opening Equity	422.02	422.02
Addition due to Additional Capitalization	0.00	2.09
Closing Equity	422.02	424.11
Average Equity	422.02	423.06
Return on Equity (Base Rate)	**15.50%**	**15.50%**
Tax rate for the year	32.445%	33.990%
Rate of Return on Equity (Pre-tax)	22.944%	23.481%
Return on Equity (Pre-tax)	**8.07**	**99.34**

Interest on loan (IOL)

27. The Gross Normative loan has been considered as per the Loan amount determined based on the debt equity ratio applied on the allowed capital cost. The depreciation of every year has been considered as Normativerepayment of loan of concerned year. As discussed above in para 6, WAROI for IOL as considered by Commission vide order dated 30.3.2017 in Petition No. 326/GT/2014 for Gandhar GPS of NTPC has been applied on the normative average loan of the instant asset. Based on the above, interest on loan allowed has been calculated as under:-

(₹ in lakh)

Particulars	**2012-13 (Pro-rata)**	**2013-14**
Gross Normative Loan	984.71	984.71
Cumulative Repayment up to previous Year	0.00	5.84
Net Loan-Opening	984.71	978.87
Addition due to Additional Capitalization	0.00	4.87
Repayment during the year	5.84	70.30
Net Loan-Closing	978.87	913.44
Average Loan	981.79	946.15
Weighted Average Rate of Interest on Loan	9.6380%	8.6642%
Interest on Loan	**7.89**	**81.98**

Depreciation

28. The Petitioner has claimed the actual depreciation as a component of Annual Fixed Cost as per Regulation 17 of the 2009 Tariff Regulations. The instant transmission asset was put under commercial operation on 1.3.2013. Accordingly, it will complete 12 years after 2013-14. As such, depreciation has been calculated annually based on Straight Line Method at the rates specified in the 2009 Tariff Regulations. Based on the above, the depreciation has been considered and allowed, as under:-

(₹ in lakh)

Particulars	**2012-13 (Pro-rata)**	**2013-14**
Opening Gross Block	1406.73	1406.73
Additional Capital expenditure	0.00	6.96
Closing Gross Block	1406.73	1413.69
Average Gross Block	1406.73	1410.21

Rate of Depreciation	4.9851%	4.9851%
Depreciable Value	1266.06	1269.19
Remaining Depreciable Value	1266.06	1263.34
Depreciation	**5.84**	**70.30**

Operation and Maintenance Expenses (O&M Expenses)

29. The O&M Expenses claimed by the petitioner is as under:-

(₹ in lakh)

Particulars	**2012-13**	**2013-14**
O&M Expenses	123.84	130.92

30. The norms for O&M expenses specified for transmission system as per Regulation 19(g) of the 2009 Tariff Regulations, for elements covered under instant petition are as under:-

Norms for sub-station	**2012-13**	**2013-14**
400 kV	61.92	65.46

31. Thus, based on norms for O&M expenses specified for transmission system as per Regulation 19(g) of the 2009 Tariff Regulations for elements covered under instant petition, the O&M Expenses allowed for control period 2009-14 are as follows:-

(₹ in lakh)

Particulars	**2012-13**	**2013-14**
Total O&M Expenses allowed	123.84	130.92

Interest on Working Capital (IWC)

32. Sub-clause (c) of clause (1) of Regulation 18 of the 2009 Tariff Regulations provides the components of the working capital for the transmission system and clause (3) of Regulation 18 of the 2009 Tariff Regulations provides for the rate of interest on working capital. The components of the working capital and the Petitioner's entitlement to interest thereon are discussed hereunder:-

a) **Maintenance Expenses:** Regulation 28 of the 2014 Tariff Regulations provides for maintenance spares @ 15% per annum of the O&M expenses**.**

b) **O & M Expenses:** O&M expenses have been considered for one month as a component of working capital.

c) **Receivables:** Receivables as a component of working capital will be equivalent to two months fixed cost. The petitioner has claimed the receivables on the basis of 2 months annual transmission charges. In the tariff being allowed, receivables have been worked out on the basis of 2 months transmission charges.

d) **Rate of Interest on Working Capital**: As per the 2009 Tariff Regulations, rate of interest on working capital has been considered as 13.50% (i.e. SBI base rate 10.00 plus 350 basis points) for computing IWC for the asset.

33. The interest on working capital allowed for the instant assets is shown in the table given below:-

(₹ in lakh)

Particulars	**2012-13 (pro-rata)**	**2013-14**
Maintenance Spares	18.58	19.64
O & M expenses	10.32	10.91
Receivables	66.38	65.93
Total	95.28	96.47
Rate of Interest	13.50%	13.50%
Interest	1.07	13.02

Annual Fixed Cost

34. In view of the above, the Annual Fixed Cost being allowed for the instant assets are summarized hereunder:-

(₹ in lakh)

Particulars	**2012-13 (Pro-rata)**	**2013-14**
Depreciation	5.84	70.30
Interest on Loan	7.89	81.98
Return on Equity	8.07	99.34
Interest on Working Capital	1.07	13.02
O&MExpenses	10.32	130.92
Total	**33.19**	**395.56**

Determination of Annual Fixed Cost for 2014-19 tariff period

35. The details of the AFC claimed by the Petitioner are as under:-

(₹ in lakh)

Particular	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	75.74	75.81	75.81	75.81	75.81
Interest on Loan	71.94	63.98	55.05	45.28	36.22
Return on Equity	84.40	84.87	84.87	84.87	84.87
Interest on Working Capital	12.00	12.05	12.08	12.09	12.12
O&MExpenses	120.60	124.60	128.74	133.02	137.42
Total	**364.68**	**361.31**	**356.55**	**351.07**	**346.44**

36. The details of the interest on working capital claimed by the Petitioner are as under:-

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Maintenance Spares	18.09	0.00	19.31	19.95	20.61
O&M expenses	10.05	0.00	10.73	11.09	11.45
Receivables	61.00	0.00	59.00	59.00	58.00
Total	89.14	0.00	89.00	90.00	90.00
Interest (Pro-rata)	12.00	0.00	12.08	12.09	12.12
Rate of Interest	13.50%	0.00	13.50%	13.50%	13.50%

Capital Cost as on 1.4.2014

37. This has been dealt in line with Clause (1) and (2) of Regulation 9 of the 2014 Tariff Regulation. The capital cost admitted as on 31.3.2014 i.e. ₹1413.69lakhis considered capital cost as on 1.4.2014.

Additional Capital Expenditure:-

38. The cut-off date for the instant assets is 31.3.2016.The Petitioner has not claimed additional capitalisation for 2014-19 tariff period. However, as per the details available in the Forms for 2009-14 and 2014-19 tariff period, undischarged liability as on COD i.e. ₹2.34 lakh has been discharged during 2014-15 and it has been allowed as additional capitalization. The Petitioner may be directed to submit the Auditor Certificate by clearly mentioning the liability amount actually discharged at the time of true up of 2014-19 Petitions. Capital Cost as on 31.3.2019 is ₹1416.03 lakh which

includes₹ 2.34 lakh as add cap during 2014-15.

Debt-Equity Ratio

39. Debt:Equity Ratio is considered as per Regulation 19 of the 2014 tariff Regulations. As discussed above, 70:30 was considered as debt-equity as on 31.3.2014 in 2009-14 tariff period which has been considered as Debt Equity ratio as on1.4.2014. In case of Additional capital expenditure, Commission in order dated 10.4.2017 in Petition No. 325/GT/2014 had considered 70:30 as Debt-Equity ratio for Jhanor Gandhar Gas Power Station. The same has been considered for the ACE of the instant asset. The Debt-Equity ratio as on 1.4.2014 and 31.3.2019 is summarised below:-

(₹ in lakh)

Particular	**Capital cost as on 1.4.2014**		**Capital cost as on 31.3.2019**	
	Amount	**%**	**Amount**	**%**
Debt	989.58	70.00	991.22	70.00
Equity	424.11	30.00	424.81	30.00
Total	**1413.69**	100.00	**1416.03**	100.00

Return on Equity

40. Regulation 24 read with Regulation 25 of the 2014 Tariff Regulations provides for grossing up of return on equity with the effective tax rate for the purpose of return on equity. As discussed above, tax rate considered by Commission in order dated 10.4.2017 in Petition No. 325/GT/2014 for NTPC’s Jhanor Gandhar GPS has been considered for the instant asset. Accordingly, ROE has been allowed, as under:

(₹ in lakh)

Particulars	**2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**
Opening Equity	424.11	424.81	424.81	424.81	424.81
Addition due to Additional Capitalization	0.70	0.00	0.00	0.00	0.00
Closing Equity	424.81	424.81	424.81	424.81	424.81
Average Equity	424.46	424.81	424.81	424.81	424.81
Return on Equity (Base Rate)	15.50%	15.50%	15.50%	15.50%	15.50%
Tax rate for the Financial year 2013-14	20.96%	21.342%	21.342%	21.342%	21.342%
Rate of Return on Equity (Pre-tax)	19.611%	19.706%	19.706%	19.706%	19.706%
Return on Equity (Pre-tax)	**83.24**	**83.71**	**83.71**	**83.71**	**83.71**

Interest on loan (IOL)

41. IOL has been calculated in the instant case as per the provisions of Regulation 26 of the 2014 Tariff Regulations. As discussed above, the WAROI of actual loan portfolio of NTPC's Jhanor Gandhar GPS' as approved by Commission in order dated 10.4.2017 in Petition No. 325/GT/2014 has been considered to service the normative loan of the concerned year. Based on the above, interest on loan allowed in the instant case has been calculated, as follows:-

(₹ in lakh)

Particulars	**2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**
Gross Normative Loan	989.58	991.22	991.22	991.22	991.22
Cumulative Repayment up to previous Year	0.00	70.54	141.13	211.73	282.33
Net Loan-Opening	989.58	920.69	850.09	779.49	708.89
Addition due to Additional Capitalization	1.64	0.00	0.00	0.00	0.00
Repayment during the year	70.54	70.60	70.60	70.60	70.60
Net Loan-Closing	920.69	850.09	779.49	708.89	638.30
Average Loan	955.13	885.39	814.79	744.19	673.59
Weighted Average Rate of Interest on Loan	8.1384%	7.9086%	7.5076%	6.8911%	6.2334%
Interest on Loan	**77.73**	**70.02**	**61.17**	**51.28**	**41.99**

Depreciation

42. The Petitioner has claimed the actual depreciation as a component of Annual Fixed Cost as per Regulation 27 of the 2014 Tariff Regulations. The instant transmission asset was put under commercial operation on 26.7.2017. Accordingly, it will complete 12 years after 2018-19. As such, the depreciation has been calculated annually based on Straight Line Method at the rates specified in Appendix-II of the 2014 Tariff Regulations. Based on the above, the depreciation has been considered and allowed, as under:-

(₹ in lakh)

Particulars	**2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**
Opening Gross Block	1413.69	1416.03	1416.03	1416.03	1416.03
Additional Capital expenditure	2.34	0.00	0.00	0.00	0.00
Closing Gross Block	1416.03	1416.03	1416.03	1416.03	1416.03
Average Gross Block	1414.86	1416.03	1416.03	1416.03	1416.03
Rate of Depreciation	4.9854%	4.9856%	4.9856%	4.9856%	4.9856%
Depreciable Value	1273.37	1274.43	1274.43	1274.43	1274.43
Remaining Depreciable Value	1273.37	1203.89	1133.29	1062.70	992.10
Depreciation	**70.54**	**70.60**	**70.60**	**70.60**	**70.60**

Operation and Maintenance Expenses (O&M Expenses)

43. The O&M Expenses claimed by the petitioner for 2014-19 tariff period is as under:-

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
O&M Expenses	120.60	124.60	128.74	133.02	137.42

a. The norms for O&M expenses specified for transmission system as per Regulation 29(4)(a) of the 2014 Tariff Regulations, for elements covered under instant petition are as under:-

Norms for sub-station- (₹ in lakh/bay)	2014-15	2015-16	2016-17	2017-18	2018-19
400 kV	60.30	62.30	64.37	66.51	68.71

b. Accordingly, based on norms for O&M expenses specified for transmission system as per Regulation 29(4)(a) & (b) of the 2014 Tariff Regulations, for elements covered under instant petition, the O&M Expenses allowed for control period 2009-14 are as follows:-

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Total O&M Expenses allowed	120.60	124.60	128.74	133.02	137.42

Interest on Working Capital ("IWC")

44. Clause 1 (c) of Regulation 28 and Clause 5 of Regulation 3 of the 2014 Tariff Regulations specify as follows:-

"28. Interest on Working Capital

(1)(c)(i) Receivables equivalent to two months of fixed cost;
(ii) Maintenance spares @ 15% of operation and maintenance expenses specified in Regulation 29; and
(iii)Operation and maintenance expenses for one month"

"(5) "Bank Rate" means the base rate of interest as specified by the State Bank of India from time to time or any replacement thereof for the time being in effect plus 350 basis points;"

45. The Petitioner is entitled to claim interest on working capital as per the 2014 Tariff Regulations. The components of the working capital and the Petitioner's entitlement to interest thereon are discussed hereunder:-

a) Maintenance spares

Regulation 28 of the 2014 Tariff Regulations provides for maintenance spares @ 15% per annum of the O &M expenses. The value of maintenance spares has accordingly been worked out.

b) O & M expenses

O&M expenses have been considered for one month of the O&M expenses.

c) Receivables

Receivables as a component of working capital will be equivalent to two months fixed cost. The petitioner has claimed the receivables on the basis of 2 months annual transmission charges. In the tariff being allowed, receivables have been worked out on the basis of 2 months transmission charges.

d) Rate of interest on working capital

As per Regulation 28 (3) of the 2014 Tariff Regulations, SBI Base Rate (10.00%) as on 01.04.2014 Plus 350 Bps i.e. 13.50 % have been considered as the rate of interest on working capital.

46. The interest on working capital allowed for the instant asset is shown in the table given below:-

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Maintenance Spares	18.09	18.69	19.31	19.95	20.61
O & M expenses	10.05	10.38	10.73	11.09	11.45

Receivables	60.68	60.16	59.38	58.45	57.64
Total	88.82	89.24	89.42	89.49	89.70
Rate of Interest	13.50%	13.50%	13.50%	13.50%	13.50%
Interest on Working capital	**11.99**	**12.05**	**12.07**	**12.08**	**12.11**

Annual Fixed Cost

47. In view of the above, the Annual Fixed Cost being allowed for the instant assets are as follows:-

(₹ in lakh)

Particulars	**2014-15**	**2015-16**	**2016-17**	**2017-18**	**2018-19**
Depreciation	70.54	70.60	70.60	70.60	70.60
Interest on Loan	77.73	70.02	61.17	51.28	41.99
Return on Equity	83.24	83.71	83.71	83.71	83.71
Interest on Working Capital	11.99	12.05	12.07	12.08	12.11
O&MExpenses	120.60	124.60	128.74	133.02	137.42
Total	**364.10**	**360.98**	**356.29**	**350.69**	**345.83**

Filing fee and the publication expenses

48. The Petitioner has sought reimbursement of fee paid by it for filing the petition and publication expenses, in terms of Regulation 52 of the 2014 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 clause (1) of Regulation 52 of the 2014 Tariff Regulations.

Reimbursement of Service Tax

49. The Petitioner has prayed for the reimbursement of service tax paid by the petitioner to NTPC on the monthly payments of usage charges of the assets in the petition for the period from COD of the assets to June 2016 of ₹162.89 lakh. We have considered the submissions of the Petitioner. As per Clause 8 of the Agreement dated 11.2.2010 between the Petitioner and NTPC, EPTCL is required to pay besides the transmission charges, the taxes including the service tax as applicable. Therefore, the

Petitioner's claim for reimbursement of service tax from COD to June, 2016 is not allowed.

Sharing of Transmission Charges

50. EPTCL filed the tariff Petition Nos. 173/TT/2013 and 111/TT/2015 for grant of transmission charges for the transmission assets covered under the licence. In respect of the 2x400 kV bay at Gandhar Switchyard, EPTCL claimed O&M Expenses on actual basis. EPTCL was granted provisional tariff vide order dated 12.9.2013. On that basis, EPTCL was making payment to NTPC. The Commission after consideration of the claim issued the following directions vide order dated 15.6.2016 in respect of the bays:

> "72. We direct NTPC and the petitioner to jointly approach the Commission for approval of tariff of two 400 kV line bays at Gandhar (NTPC) switchyard. After approval of the tariff, the petitioner shall recover the same through PoC and reimburse it to NTPC."

51. After issue of this order, EPTCL stopped making payment to NTPC. NTPC filed Review Petition No.55/RP/2016 seeking review of the Commission's order. The Commission in order dated 30.1.2018 in the said review petition made the following observations:-

> "11. NTPC was directed to submit the cost of the two bays at Gandhar Switchyard and accordingly NTPC has submitted the same alongwith rejoinder to the reply of EPTCL. EPTCL is directed to file a petition for determination of tariff of the two bays at Gandhar Switchyard within 30 days of issue of this order on the basis of the details of cost furnished by NTPC. Further, NTPC is directed to provide further details, if any, required by EPTCL for filing the tariff petition.
>
> 12. EPTCL has submitted that the Commission in RoP dated 24.1.2017 had directed that till the disposal of the review petition, EPTCL would be reimbursed transmission charges provisionally as allowed in order dated 12.9.2013 in Petition o.173/TT/2013 from June, 2016 onwards, pro-rated to the capital cost of the bays to enable EPTCL to pay to NTPC. Though EPTCL approached NTPC to issue revised invoices for further submission to CTU, NTPC did not issue revised invoices as a result of which the interim directions of the Commission could not be given effect to. EPTCL further approached CTU which expressed its inability to recover the transmission charges.
>
> 13. It is observed that EPTCL has not paid the transmission charges from the bays to NTPC since the issue of order dated 15.6.2016. Further, despite directions of the Commission in ROP dated 24.1.2017, EPTCL has not been reimbursed the provisional tariff for the bays. Pending filing of the tariff petition as per our order in para 11 above

> and determination of tariff for the bays at Gandhar Switchyard, we direct that as an interim measure, EPTCL be reimbursed tariff at the rate of 80% of the transmission charges claimed by EPTCL (80% of which EPTCL has claimed from CTU towards transmission charges) from POC from June, 2016 onwards till the determination of final tariff of the bays. EPTCL is directed to make payment of the charges to NTPC within 3 days of receipt of transmission charges from CTU."

52. In compliance with the above directions, the Petitioner has filed the instant tariff petition based on the capital cost and other related inputs shared by NTPC with the Petitioner.

53. Subsequent to filling the instant petition, NTPC filed I.A. No.43/IA/2018, seeking directions to CTU to transfer the money collected through PoC to NTPC pertaining to the 2 No. of 400 kV Gandhar bays owned and maintained by NTPC for usage by EPTCL. NTPC has submitted that the reimbursement amount against the transmission assets of EPTCL gets credited to the Trust and Retention Account (TRA) of EPTCL managed by Rural Electrification Corporation as TRA agent. NTPC submitted that TRA mechanism seeks to protect the project lenders against the credit risks by shifting the control over future cash flows from the hands of the borrowers (Project Company) to the TRA agents duly mandated by the lenders. NTPC submitted that 2 Nos. of 400 kV bays have been constructed and financed by NTPC. Routing of the money collected by CTU through TRA pertaining to the transmission assets of EPTCL including the 2 Nos. of 400 kV bays was resulting in delays in receipt of dues by NTPC.

54. After considering submissions of NTPC and EPTCL submissions, the Commission vide order dated 11.6.2018 in I.A. No. 43/IA/2018, observed as under:-

> "6. We have considered the submissions of NTPC and EPTCL. Though EPTCL has been granted licence for the 2 Nos. of 400 kV bays at Gandhar Jhanoor TPS of NTPC, the two bays have been constructed, financed, owned and maintained by NTPC. NTPC has entered into a bilateral agreement on 11.2.2010 with EPTCL according to which user charges for the bays would be paid by EPTCL computed as per the applicable tariff regulations. Since these bays are assets of NTPC, they have been financed by NTPC and not by the lenders of EPTCL. Therefore, there is no reason to route the tariff of

these assets of NTPC through TRA which is the agent of the lenders of EPTCL and has been appointed to protect the interest of the lenders. NTPC has submitted that routing the tariff of these bays through TRA is resulting in delay in getting the usage charges of the bays. Considering the fact that the bays are assets of NTPC and EPTCL has an agreement to pay the usage charges of the bays at the applicable tariff of the Commission and the tariff of the bays shall be determined based on the cost details provided by NTPC from its books of account, we consider it appropriate to issue directions to CTU to make direct payment of the monthly PoC charges to NTPC for the 2 Nos. of 400 kV bays at Jhanor Gandhar TPS of NTPC till further orders".

55. Accordingly, in light of the above, the transmission charges of the bays at Jhanor Gandhar of NTPC Ltd. (i.e. 2 x400 kV Bays at Jhanor Gandhar of NTPC Ltd. which form part of the inter-State transmission system of EPTCL) shall be shared, as provided in Regulation 43 of the 2014 Tariff Regulations, by the beneficiaries and long term transmission customers in terms of Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010 as amended from time to time. However, transmission charges receivable by the EPTCL from CTU under POC mechanism shall be directly paid to NTPC.

56. The licence for the instant two bays is with EPTCL, but they were constructed by NTPC with its own funds. There is a Commercial Agreement between EPTCL and NTPC for payment of transmission charges for the said bays. Since the capital cost, etc. were not available with EPTCL, the Commission directed for joint application by NTPC and EPTCL and accordingly determined the tariff. The transmission charges for the instant bays are being paid to NTPC directly by CTU since EPTCL is before NCLT under IBC. This arrangement of licence being granted to EPTCL and the bays being constructed by NTPC is resulting in practical difficulties in filing of the tariff petitions and determination of tariff. Taking into account the peculiarity of the case, we are of the view that since the bays were constructed, operated and maintained by NTPC, the licence may need to be modified to exclude the bays from the scope of the licence granted to EPTCL. The bays constructed by NTPC in its generation station

with its own funds may be treated as part of the generating station, thereby enabling NTPC to claim the transmission charge as part of the generating station. NTPC and EPTCL are directed to jointly approach the Commission in this regard within two months from the date of issue of this order.

I.A. No.60/IA/2018

57. EPTCL also filed I.A. No.60/IA/2018 for directions to NTPC to (i) release the bank guarantee given by EPTCL to NTPC forthwith and (ii) hold that availability of NTPC bays would be determined independently and would not have any impact on the availability of assets owned and controlled by EPTCL. EPTCL submitted that the Commission vide order dated 11.6.2018 in I.A. No. 43/IA/2018 had modified the terms of the Agreement entered between EPTCL and NTPC and varied the terms of payment by directing the CTU to release the transmission charges of the instant assets, collected through the PoC mechanism, directly to NTPC which was otherwise to be paid through EPTCL. EPTCL submitted that the said order did not deal with the issue of status of BG, which was the payment security given by EPTCL to NTPC for the bays of NTPC. EPTCL has submitted that in addition to undertaking to pay for using the bays, EPTCL was also required to furnish a bank guarantee for ₹13.5 crore (presently a bank guarantee of ₹12.78 crore has been provided by EPTCL) as security to protect the interest of NTPC incurred towards capital cost. In the light of the order dated 11.6.2018, the investment security furnished by the EPTCL has become redundant. Therefore, vide letter dated 25.6.2018, EPTCL requested NTPC to release the BG. As no reply was received by EPTCL from NTPC, EPTCL has filed the I.A No. 60/IA/2018 for return of the BG furnished in terms of the commercial agreement.

58. During the hearing on 20.12.2018, the learned counsel for EPTCL submitted that the BG should be released as the transmission charges for the instant two bays are

paid directly by CTU to NTPC and as there is no need for payment security for transmission charges.

59. NTPC in its written submissions has stated that as per Clauses 10 and 11 of the Commercial Agreement dated 11.2.2010, the BG is a security for payment of all the amounts due along with the security to protect the interest of NTPC in incurring the capital cost of installing 2X400 kV Bays. The due amount referred to includes not only the monthly charges but also the additional amount payable by EPTCL to NTPC directly (on a bilateral basis), on a monthly basis (at per kWh) towards the compensation for current transformer and potential transformer losses, all taxes and other outgoings incurred by NTPC from time to time, related to the above bays. NTPC has submitted that the primary and principal protection secured by the BG is about the un-serviced part of the capital cost in the event of termination of the Agreement and various elements of other charges and taxes referred to in Clause 8 of the Agreement. The payment of monthly charges is only one of the elements. The BG is required to be maintained by EPTCL for other elements. The BG provision in the Agreement is a composite and integrated bank guarantee/consideration and cannot be considered as a severable bank guarantee with relation to payment of monthly charges. However, the payment of monthly charges is severable from the other elements/charges payable by EPTCL to NTPC in terms of Clause 8 of the Agreement. The severance of the obligation to pay the monthly charges secured by the bank guarantee, amongst other obligations, will not in any manner alter the scope of the whole contract, as to make it a new contract. Therefore, EPTCL continues to require the use of the bays and is under an obligation to maintain the payment security through BG for various elements as given in Clause 8, besides monthly transmission charges.

60. EPTCL, vide its affidavit dated 7.1.2019, has submitted that the submission of NTPC that the BG is not a payment security but a security for the investment by NTPC is baseless, as the investment had to be recovered only through tariff payments computed in-terms of the applicable Regulations. EPTCL now having no role in tariff payments, there is no need to furnish a payment security.

61. We have considered the submissions of EPTCL and NTPC regarding the BG. We are of the view that the BG has been provided by EPTCL to NTPC in terms of the Commercial Agreement between them. However, in the light of need to modify the licence of EPTCL to exclude the two bays, the decision regarding release of BG shall be taken alongwith the decision regarding modification of the licence. Accordingly, I.A. No.60/IA/2018 is disposed of.

62. This order disposes of Petition No. 102/TT/2018.

sd/-	sd/-
(Dr. M. K. Iyer)	**(P.K. Pujari)**
Member	**Chairperson**