

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.32/TT/2019

Coram:

Shri P.K. Pujari, Chairperson

Shri I.S. Jha, Member

Date of Order: 14.04.2020

In the matter of:

Approval under Regulation-86 of CERC (Conduct of Business) Regulations,1999 and CERC (Terms and Conditions of Tariff) Regulations, 2014 for determination of Transmission Tariff from anticipated COD to 31.03.2019 for **Asset-I**: 02 Nos. 400kV bays at Samba Substation for Amargarh to Samba (Powergrid) transmission line along with 02 Nos. 50 MVAR Non switchable line Reactors under Northern Region System Strengthening Scheme-XXIX (NRSS-XXIX) in Northern Region.

And in the matter of:

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

.....Petitioner

Versus

1. Rajasthan Rajya Vidyut Prasaran Nigam Limited
Vidyut Bhawan, Vidyut Marg,
Jaipur - 302 005
2. AjmerVidyut Vitran Nigam Ltd
132 kV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar, Jaipur-302017 (Rajasthan)
3. Jaipur Vidyut Vitran Nigam Ltd
132 kV, GSSRVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar, Jaipur-302017 (Rajasthan)



4. Jodhpur Vidyut Vitran Nigam Ltd
132 kV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar, Jaipur-302017 (Rajasthan)
5. Himachal Pradesh State Electricity Board
Vidyut Bhawan, Kumar House Complex Building II
Shimla-171 004
6. Punjab State Electricity Board
Thermal Shed TIA, Near 22 Phatak
Patiala-147001
7. Haryana Power Purchase Centre
Shakti Bhawan, Sector-6
Panchkula (Haryana) 134 109
8. Power Development Deptt.
Govt. of Jammu & Kashmir
Mini Secretariat, Jammu
9. Uttar Pradesh Power Corporation Ltd.
(Formerly Uttar Pradesh State Electricity Board)
Shakti Bhawan, 14, Ashok Marg
Lucknow - 226 001
10. Delhi Transco Ltd
Shakti Sadan, Kotla Road,
New Delhi-110 002
11. BSES Yamuna Power Limited
B Block, Shakti Kiran Bldg. (Near Karkardooma Court)
Karkardooma, 2nd Floor,
Delhi-110092
12. BSES Rajdhani Power Ltd.
BSES Bhawan, Behind Nehru Place,
New Delhi-110019
13. Tata Power Delhi Distribution Limited
33 kV Substation Building, Hudson Lane
Kingsway Camp,
North Delhi - 110009
14. Chandigarh Administration
Sector -9, Chandigarh



15. Uttarakhand Power Corporation Ltd.
Urja Bhawan, Kanwali Road
Dehradun
16. North Central Railway
Allahabad.
17. New Delhi Municipal Council
Palika Kendra, Sansad Marg
New Delhi-110002
18. NRSSXXIX Transmission Limited
(The Sterlite Company)
The Mira Corporate Suits,
I & 2 Ishwar Nagar, Mathura Road,
New Delhi 110065, India

...Respondents

Parties present:

For Petitioner:

Shri S.S. Raju, PGCIL
Shri Amit K Jain, PGCIL
Shri V.P. Rastogi, PGCIL
Shri A.K.Verma, PGCIL
Shri Nitish Kumar, PGCIL

For Respondent:

Shri R.B. Sharma, Advocate, BYPL & BRPL
Shri Mohit Mudgal, Advocate, BYPL & BRPL

ORDER

The present petition has been filed by the Petitioner, Power Grid Corporation of India Ltd. ("PGCIL") for determination of tariff for **Asset-I**: 02 Nos. 400kV bays at Samba Substation for Amargarh to Samba (PGCIL) transmission line along with 02 Nos. 50 MVAR non-switchable line reactors under "Northern Region System Strengthening Scheme-XXIX (NRSS-XXIX) in Northern Region" for 2014-19 tariff period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as "the 2014 Tariff Regulations").



2. The Petitioner has made the following prayers:

- i. Approve the Transmission Tariff for the tariff block 2014-19 for the assets covered under this Petition.*
- ii. Admit the capital cost as claimed in the Petition and approve the Additional Capitalization incurred / projected to be incurred.*
- iii. Allow the Petitioner to recover the shortfall or refund the excess Annual Fixed Charges, 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 as provided under clause 25 of the Tariff Regulations 2014.*
- 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 Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014, and other expenditure (if any) in relation to the filing of petition.*
- v. Allow the Petitioner to bill and recover License fee and RLDC fees and charges, separately from the respondents in terms of Regulation 52 of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014.*
- vi. Allow the Petitioner to bill and adjust impact on Interest on Loan due to change in Interest rate on account of floating rate of interest applicable during 2014-19 period, if any, from the respondents.*
- vii. Allow provisional tariff in accordance with clause 7 (i) of Regulation 7 Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014.*
- viii. Allow the Petitioner to bill Tariff from actual DOCO and also the Petitioner may be allowed to submit revised Management Certificate and tariff Forms (as per the Relevant Regulation) based on actual DOCO.*
- ix. Allow the Petitioner to bill and recover GST on Transmission charges separately from the respondents, if GST on Transmission of electricity is withdrawn from the exempted (negative) list at any time in future. Further any taxes and duties including cess, etc. imposed by any Statutory/Govt./Municipal Authorities shall be allowed to be recovered from the beneficiaries.*
- x. Allow the Petitioner to approach Commission for suitable revision in the norms for O&M expenditure for claiming the impact of wage hike from 1.1.2017 onwards.*

and pass such other relief as the Commission deems fit and appropriate under the circumstances of the case and in the interest of justice.



Background

3. The Investment Approval (hereinafter referred to as "IA") for implementation of assets under "Northern Region System Strengthening Scheme-XXIX (NRSS-XXIX)" in Northern Region was accorded by the Board of Directors of the Petitioner in 324th meeting held on 12.1.2016 for ₹5740 lakh including IDC of ₹307 lakh based on August, 2015 price level (communicated vide Memorandum No. C/CP/NRSS-29 dated 14.1.2016).

4. The scope of the scheme was discussed and agreed in 31st meeting of Standing Committee on Power System Planning in Northern Region held on 2.1.2013 and 28th Meeting of Northern Regional Power Committee held on 4.6.2013 wherein following systems were discussed and agreed under NRSS-XXIX project for implementation under Tariff Based Competitive Bidding route:-

- 1) Jalandhar – Samba 400 kV D/c
- 2) Samba – Amargarh 400 kV D/c

5. Further, as per 31st Meeting of the Standing Committee of Power System Planning of Northern Region held on 2.1.2013, the Petitioner has been entrusted with the implementation of 02 Nos. 400kV bays at Jalandhar S/s and 4 Nos. 400kV bays at Samba S/s.

6. The scope of work covered under the project "Northern Region System Strengthening Scheme-XXIX (NRSS-XXIX)" is as follows:-

Substations

- (i) Jalandhar 400/220 kV Substation
400 kV- Line bays- 2 Nos.
- (ii) Samba 400/220 kV Substation



400 kV- Line bays- 4 Nos.

2 Nos. 50 MVAR Line Reactors at Samba end of Samba-Amargarh 400 kV Line

7. Details of the assets covered in the project scope under various petitions is summarized below:-

S.N.	Asset	COD	Petition no
1	Asset 1: 02 Nos. 400kV bays at Samba Substation for Amargarh to Samba (POWERGRID) transmission line along with 02 Nos. 50 MVAR Non switchable line Reactors.	26.8.2018	Instant petition (Earlier filed with Petition no. 4/TT/2018)
2	2 Nos. 400kV Line Bays at Samba S/s & 2 Nos. 400kV Line Bays at Jalandhar S/s	11.12.2016	4/TT/2018

8. Petitioner had earlier filed Petition 4/TT/2018 for both the assets covered in the NRSS-XXIX i.e. **Asset 1:** 02 Nos. 400kV bays at Samba S/s for Amargarh to Samba (PGCIL) transmission line along with 02 Nos. 50 MVAR Non-switchable line reactors with anticipated COD of 01.10.2017 and **Asset 2:** 2 No. 400kV Line Bays at Samba S/s & 2 No. 400kV Line Bays at Jalandhar S/s with actual COD of 11.12.2016. The Commission vide order dated 19.7.2018 did not allow tariff for Asset 1 on the basis of anticipated COD and directed the Petitioner to file fresh petition after actual COD. The instant petition has been filed for determination of transmission tariff for the said Asset 1 of the Petition No. 4/TT/2018 and is the Asset-I (the only asset) in the instant Petition. With this asset, scope of the project as contemplated in the IA gets completed.



9. The details of the Annual Transmission Charges claimed by the Petitioner are as under:-

Particulars	(₹ in lakh)
	Asset-I 2018-19 (Pro-rata)
Depreciation	91.96
Interest on Loan	90.59
Return on Equity	101.87
Interest on Working Capital	10.01
O & M Expenses	82.38
Total	376.81

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

Particulars	(₹ in lakh)
	Asset-I 2018-19 (Pro-rata)
Maintenance Spares	20.61
O&M expenses	11.45
Receivables	104.76
Total	136.82
Rate of Interest	12.20%
Interest on working capital	10.01

11. The Petitioner has served a copy of the petition upon the respondents and notice of this tariff 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. Reply to the petition has been filed by UPPCL, (Respondent No. 9), vide affidavit dated 28.2.2019 and BRPL, (Respondent No. 12), vide affidavit dated 16.5.2019 and the Petitioner vide its affidavits dated 15.11.2019 filed its rejoinder to the replies of UPPCL and BRPL.



12. The Petition was heard on 11.2.2020 and the Commission reserved the order in the Petition.

13. This order has been issued after considering the main petition dated 21.12.2018 and Petitioner's affidavits dated 4.2.2019,15.11.2019 (2 nos.), 6.12.2019 and 20.3.2020 and replies of UPPCL and BRPL dated 28.2.2019 and 16.5.2019, respectively.

14. Having heard the representatives of the Petitioner present at the hearing and perused the material on record, we proceed to dispose of the petition.

Date of Commercial Operation (COD)

15. The asset covered in the current petition corresponds to 400kV D/C Samba-Amargarh transmission line which has been constructed by M/s NRSS XXIX Transmission Limited (Sterlite Power) under TBCB route. As per the investment approval dated 12.01.2016, the transmission asset covered under the instant Petition was scheduled to be put under commercial operation within 34 months, i.e. by 12.11.2018.

16. However, the Petitioner has claimed that the instant asset i.e. 2 Nos. 400kV Line bays at Samba S/s & 2 No. 50 MVAR Line Reactor at Samba S/s were put under commercial operation on 26.08.2018 (i.e. before SCOD of 12.11.2018) matching with 400kV D/C Samba-Amargarh transmission line under TBCB route (M/s NRSS-XXIX transmission limited), which was put under commercial operation on 23.08.2018.



17. In view of early commercial operation of the asset, the Commission, vide RoP of hearing dated 18.11.2019, directed the Petitioner to submit reasons for early COD of the instant bays along with the consent/ approvals, if any, for such early COD.

18. In response, the Petitioner vide affidavit dated 6.12.2019 has submitted that the Asset-I corresponds to 400kV D/C Samba-Amargarh transmission line which has been constructed by M/s NRSS-XXIX transmission limited. It has submitted that as per monthly progress report issued by CEA as on 31.10.2018, the scheduled COD of 400kV D/C Samba-Amargarh transmission line was 4.10.2018.

19. The Petitioner has further submitted that issue of early COD of the subject Asset was discussed and agreed in 39th meeting of Standing Committee of Power System Planning of Northern Region held on 29/30.5.2017.

20. The details of charging of TBCB line as per RLDC certificate dated 20.09.2018 and 21.09.2018 is as follows:-

400kV D/C Samba-Amargarh transmission line circuit-I	Charged on 31.08.2018 Trial Run completed on 01.09.2018
400kV D/C Samba-Amargarh transmission line circuit-II	Charged on 21.08.2018 Trial Run completed on 22.08.2018

Based on the above, M/s NRSS-XXIX transmission limited has declared COD of 400kV D/C Samba-Amargarh transmission line circuit-II as 23.08.2018 as the trial run of 400kV D/C Samba-Amargarh transmission line circuit-II was completed on 22.08.2018.



21. The Petitioner has submitted CEA energisation certificate dated 14.12.2017, RLDC charging certificate dated 21.9.2018 and CMD certificate as required under Grid Code. As per RLDC certificate dated 21.09.2018, details of energisation and trial run of the instant asset are as under:

50 MVAR Non switchable line reactors at both ends and associated bay no. 404 (main) & 405 (tie) at Amargarh (NRSSXXIX), 416 (main & 417 (tie) at Samba (PG) end.	Trial Run commenced on 21.08.2018 Trial Run completed on 22.08.2018
50 MVAR Non switchable line reactor-1 of Amargarh (NRSSXXIX) line-1 at Samba (PG) and along with associated bay no.413 (main) & 414 (tie)	Trial Run commenced on 24.08.2018 Trial Run completed on 25.08.2018

22. Based upon the trial run of instant assets, the Petitioner has claimed the actual COD in respect of the instant asset as per the following details:-

S.N.	Name of Asset	COD claimed
1	Asset 1: 02 Nos. 400kV bays at Samba Substation for Amargarh to Samba (POWERGRID) transmission line along with 02 Nos. 50 MVAR Non switchable line Reactors.	26.8.2018 (Actual)

23. We have considered the submissions of the Petitioner. As per IA dated 12.1.2016, the SCOD of the instant asset is 12.11.2018 against which the asset was put under commercial operation on 26.8.2018. The issue of early COD of the asset (matching with COD of the transmission line of M/s Sterlite) was discussed in the 39th meeting of Standing Committee of Power System Planning of Northern Region held on 29/30.5.2017. The instant asset was primarily stipulated to be put under commercial operation along with the main transmission line Samba-Amargarh 400 kV D/C being implemented through TBCB route. Accordingly, the Petitioner has declared COD of the instant asset matching with that of the above TBCB line. Therefore, in our view, the early COD of the instant asset is in order.



24. Taking into consideration of the RLDC charging certificate, CEA energisation certificate and CMD certificate as required under Grid Code and the fact that COD of the instant asset matches with the COD of 400kV D/C Samba-Amargarh transmission line under TBCB route, the COD of the instant asset is approved as 26.8.2018.

Capital Cost

25. Clause (1) and (2) of Regulation 9 of the 2014 Tariff Regulations provide as follows:-

“(1) The Capital cost as determined by the Commission after prudence check in accordance with this regulation shall form the basis of determination of tariff for existing and new projects”

(2) The Capital Cost of a new project shall include the following:

- (a) The expenditure incurred or projected to be incurred up to the date of commercial operation of the project;*
- (b) Interest during construction and financing charges, on the loans (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 funds deployed;*
- (c) Increase in cost in contract packages as approved by the Commission;*
- (d) Interest during construction and incidental expenditure during construction as computed in accordance with Regulation 11 of these regulations;*
- (e) Capitalised Initial spares subject to the ceiling rates specified in Regulation 13 of these regulations;*
- (f) Expenditure on account of additional capitalization and de-capitalisation determined in accordance with Regulation 14 of these regulations;*
- (g) Adjustment of revenue due to sale of infirm power in excess of fuel cost prior to the COD as specified under Regulation 18 of these regulations; and*
- (h) Adjustment of any revenue earned by the transmission licensee by using the assets before COD.”*

26. The Petitioner vide Auditor’s Certificate dated 22.11.2018 has claimed the following capital cost incurred as on COD and additional capitalization projected to be incurred, in respect of the instant asset:-



Asset	Apportioned Approved Cost (FR)	Cost up to COD	Projected Additional Capitalisation in FY		Estimated Completion Cost
			2018-19	2019-20	
			Asset-1	3555.09	

(₹ in lakh)

Cost Over-run

27. The Petitioner has submitted that against the total apportioned approved cost of ₹3555.09 lakhs, the completed cost is ₹3459.80 lakhs, Hence, there is no cost overrun. The reasons for item-wise minor cost variation between approved cost (FR) and estimated cost are explained by the Petitioner in the petition.

28. The Respondent, UPPCL, vide affidavit dated 28.2.2019 has submitted that there is variation (increase) in the cost of major items to the tune of ₹346.59 lakh on account of high rate awarded through tender.

29. The Respondent, BRPL, vide affidavit dated 16.5.2019 has submitted that although, there is no overall cost overrun, there are variations in actual cost of various items as compared with the cost estimates as per the Investment Approval. The justification filed by the Petitioner for such variations is very casual and, therefore, these variations may be disallowed by the Commission.

30. In response, the Petitioner vide rejoinders dated 15.11.2019 to the above replies of UPPCL and BRPL has submitted a tabular comparison of item-wise FR cost and actual cost of major items and submitted that the bid prices are invited for the complete scope of work on overall basis and not for individual items and the



contracts are awarded to the qualified bidder, whose bid is determined as the lowest evaluated, techno-commercially responsive and, who is considered to have capacity and capability to perform the contract. The Petitioner has further submitted that overall completion cost is within the FR, hence the cost variation in individual items may be allowed by the Commission.

31. We have considered the submission of the Petitioner and Respondents and noted that against the total apportioned approved cost as per FR in respect of instant asset as mentioned in the table in the above paragraph, the estimated completion cost including additional capitalisation is within the apportioned approved cost. Therefore, there is no cost overall over-run in completion of the asset compared to the FR cost. In a bidding process, it is not appropriate to compare the cost of individual items.

Time over-run

32. As per the Investment Approval (IA) dated 12.1.2016, the transmission scheme was scheduled to be commissioned within 34 months from the date of Investment Approval. Accordingly, the scheduled date of commercial operation comes to 12.11.2018 against which the Asset-1 is put under commercial operation on 26.8.2018. Therefore, there is no time over-run.

Interest During Construction (IDC)

33. The Petitioner has claimed Interest During Construction (IDC) of ₹136.67 lakh for the instant asset and submitted Auditor's Certificate dated 22.11.2018 in support of the same. Vide RoP for hearing dated 18.11.2019 and 11.2.2020, the



Petitioner was directed to submit the reasons for (a) mismatch between the interest rate for Bond-LVII in IDC statement and that mentioned in Form-9C and (b) mismatch between the loan amount taken for IDC computation as mentioned in IDC statement and that mentioned in Form 9C.

34. In response, the Petitioner, vide affidavit dated 6.12.2019, has submitted the following:-

(i) There is mismatch between the interest rate for Bond-LVII in IDC statement and that mentioned in Form-9C since there is an inadvertent error in interest rate and withdrawal date while calculating loan amount for IDC computation in IDC statement. Interest rate for Bond-LVII is 7.20%. Correct IDC statement is enclosed with interest rate 7.20%.

(ii) Mismatch in loan amount in IDC statement and Form 9C occurred since the accrued IDC as on COD has not been considered while calculating the tariff as the same was undischarged upto COD. The accrued IDC has been taken out of expenditure as on COD and added in the additional capitalisation, when it has been discharged. Accordingly, loan/fund deployed with respect to accrual IDC has been considered in respective additional capitalisation whenever discharged.

(iii) As per auditor certificate total claimed IDC, out of the total IDC, some IDC has been discharged up to COD and the remaining amount has been discharged during FY 2018-19 & 2019-20. The same has been considered as part of additional capitalisation cost for 2018-19 & 2019-20 for all the Assets. Therefore, for the purpose of tariff calculation, the corresponding loan has been reduced from loan as on COD and added in the additional capitalisation loan.



(iv) Accordingly, the cash IDC statement was made after the consideration of the total loan as on COD (including additional capitalisation loan for cash IDC).

(v) Reconciliation of loan amount as per cash IDC and Form 9C is as below:-

(₹ in lakh)			
S.N.	Loans	Loan Amount as per Cash IDC	Loan amount as per Form 9C
1	Bond LVII	254.23	254.23
2	SBI (2016-2017) (Q4)	190.84	190.84
3	SBI (2017-2018) (Q1)	1.07	1.07
4	Bond LIX	438.00	438.00
5	Bond LX	254.00	254.00
6	Bond LXI	474.00	474.00
7	SBI-04 (2018-2019) (Q2) (10.08.2018)	194.16	163.57
Total		1806.30	1755.71

35. We have gone through the submissions of the Petitioner and have worked out the IDC. Details of IDC considered for tariff computation is given in the table below. The Petitioner is directed to file detailed IDC statement by rectifying the aforesaid deviations, at the time of true up for the tariff period 2014-19.

(₹ in lakh)					
Assets	IDC claimed as per Auditor certificate	Allowable IDC as on COD (Accrual)	IDC disallowed as on COD		Allowable IDC as on COD (Cash basis)
			Excess claim	Undischarged liability	
Asset-1	136.67	135.76	0.91	42.79	92.97

36. The IDC un-discharged and consequently deducted from the capital cost as on COD has been added to the add-cap of the following year in which it was discharged. The total amount of IDC accrued till COD is duly certified by the auditor. The discharged IDC up to COD has been allowed in tariff and that discharged in subsequent years are considered as additional capital expenditure during FY 2018-



19 and FY 2019-20. IDC discharged during 2019-20 is beyond the tariff period 2014-19. Hence the same will be considered as add-Cap during 2019-24 period.

Assets	Undischarged liability as on COD	Discharged during 2018-19	Discharged during 2019-20
Asset-1	42.79	36.90	5.89

Incidental Expenditure During Construction (IEDC)

37. As indicated in Para 8 of this Order, with the COD of the two assets of the NRSS-XXIX, the Project Scope is complete. Vide Order dated 19.7.2018 in petition No 4/TT/2018, the claimed IEDC amounting to ₹11.53 lakh was allowed by the Commission. The Petitioner has claimed IEDC of ₹126.08 lakh for the instant asset and has submitted Auditor's Certificate in support of the same.

38. Commission, vide Order dated 4.2.2020 in Petition No 1/TT/2019 had observed that:

“Incidental Expenditure During Construction (IEDC)

23. The Petitioner has claimed IEDC of the assets covered in the petition and submitted Auditor certificate in support of the same. We observe that all the assets of the transmission system “Common Scheme for 765 kV Pooling Station and Network for NR, Import by NR from ER and Common Scheme for network for WR and Import by WR from ER and from NER/SR/WR via ER” have been put under commercial operation, either during 2009-14 period or during 2014-19 period.

24. The Appellate Tribunal for Electricity (APTEL), vide its judgment dated 2nd December 2019 in Appeal Nos. 95 of 2018 and 140 of 2018 on the issue of “IEDC to be considered in tariff” has held that IEDC should be computed only on actual basis after due prudence check based on the data submitted by the Appellant in accordance with the Tariff Regulations. Further, vide para 7.12 of the judgment, ATE has, inter alia, observed that “.....without prejudice to the contention that hard costs should not be considered, even if hard cost is to be seen then, at least “IEDC” including contingencies should be applied”.



25. As per the APTEL judgment, computation of IEDC of the Project is to be made on actual basis after applying due prudence. The Petitioner files tariff petitions for individual assets and Commission decides tariff for these assets, which are subsequently combined when all the assets of the Project are brought under commercial operation. Thus, prudence can only be applied with reference to the combined IEDC as per FR Cost /RCE on completion of the Project. The present petition is a true up (2009-14) petition, and as mentioned in para 23, all the assets of the Project have been commissioned and their tariff determined on individual basis. As a part of prudence exercise, the IEDC allowed as per respective tariff orders for all the assets of the Project has been compared with the IEDC (including contingencies) for the Project as per RCE. We observe that the IEDC allowed for the Project, except that for the eight assets of the present petition, is Rs 7424.85 lakh which is well within the IEDC limit of Rs 13959.00 lakh as per RCE. The actual IEDC (as claimed) against the eight assets of the present petition is Rs 2604.12 lakh. After disallowing an amount of ₹4.50 lakh, ₹3.13 lakh and ₹33.03 lakh, in case of Asset-3, Asset-7 and Asset- 8 respectively due to time over run, ₹2563.56 lakh is being allowed as IEDC.

26. We reiterate that Commission has applied prudence in the above manner in the present case as all the assets of the Project have been commissioned. For asset wise tariff determination, Commission intends to continue with the existing practice of IEDC and prudence shall be applied on the IEDC, once the Project is fully commissioned.”

39. It is observed that as per the Abstract Cost Estimate annexed with the Investment Approval for NRSS-XXIX memorandum dated 14.1.2016, the IEDC including contingencies for the Project is ₹ 658.00 lakh. Vide Order dated 19.7.2018 in petition no 4/TT/2018, the IEDC of ₹ 11.53 lakh, claimed by the Petitioner, was allowed by the Commission. As the IEDC claimed in the instant petition along with that allowed by the Commission in petition no 4/TT/2018 is within the limits of the Project IEDC (including contingencies), the IEDC as claimed in the instant petition is allowed.

(₹ in lakh)		
IEDC Claimed	Disallowed due to time over-run	IEDC claimed & allowed as on COD
126.08	0.00	126.08



Initial Spares

40. This has been dealt in line with Regulation 13 of the 2014 Tariff Regulations. The Petitioner has claimed initial spares for the Asset covered in the petition and has submitted Auditor's certificate in support of the same. We have considered the submissions made by the Petitioner. The initial spares allowed for the purpose of tariff calculation after considering the Plant and Machinery cost excluding IDC, IEDC and Land expenses up to 31.3.2019, subject to ceiling limit of 6% as per 2014 Tariff Regulation is as under:-

(₹ in lakh)

Asset	Type	Plant and machinery Cost excluding IDC, IEDC, Land Expenditure up to 31.03.2019	Initial Spares claimed	Initial Spares admissible	Initial Spares allowed
Asset-1	Substation(brownfield)	2984.65	64.81	186.37	64.81

Capital cost as on COD

41. Accordingly, the capital cost allowed as on COD under Regulation 9(2) of the 2014 Tariff Regulations is summarized as under:-

(₹ in lakh)

Asset	Capital Cost as on COD as per Auditor Cost Certificate	Less: IDC disallowed due to calculation	Less: Undischarged IDC	Less: IEDC Disallowed, if any	Capital Cost as on COD Considered for tariff calculation
	1	2	3	4	5=1-2-3-4
Asset-1	2580.43	0.91	42.79	0.00	2536.73

Additional Capital Expenditure (ACE)

42. As per Clause (13) of Regulation 3 of the 2014 Tariff Regulations, the cut-off date for instant assets is 31.3.2021. The Petitioner has submitted Auditor's



Certificates in support of the additional capitalisation for the period 2018-19 and 2019-20 as under:-

Asset	Additional Capital Expenditure claimed for FY		(₹ in lakh)
	Total		
	2018-19	2019-20	
Asset-1	666.98	212.39	677.50

43. The Petitioner has claimed ACE during 2018-19 and 2019-20. Since FY 2019-20 falls beyond the tariff period 2014-19 and is not covered under 2014 Tariff Regulation, the projected ACE claimed beyond 2018-19 has not been taken into consideration and the same shall be dealt during the next tariff period as per extant Tariff Regulations. The undischarged IDC as on COD and discharged during 2018-19 has been considered in the ACE of 2018-19 as per following details:-

Assets	Undischarged IDC as on COD(discharged during 2018-19)	Estimated ACE during 2018-19 (balance and retention payment)	Total ACE allowed during 2018-19
	1	2	3=1+2
Asset-1	36.90	666.98	703.88

Capital cost for the tariff period 2014-19

44. Accordingly, the capital cost considered for the tariff period 2014-19, subject to truing up, is as follows:-

Asset	Capital Cost as on COD considered for tariff calculation	ACE allowed during 2018-19	(₹ in lakh)
			Total Estimated Completion Cost up to 31.03.2019
Asset-1	2536.73	703.88	3240.61



Debt-Equity Ratio

45. Debt-Equity Ratio is considered as per Regulation 19 of the 2014 tariff Regulations and in line with para 30 above. The debt-equity as on dates of commercial operation and 31.3.2019 considered on normative basis are as under:-

Asset-1	(₹ in lakh)			
	As on COD		As on 31.03.2019	
Debt	1,775.71	70%	2,268.43	70%
Equity	761.02	30%	972.18	30%
Total	2,536.73	100%	3,240.61	100%

Return on Equity (ROE)

46. The Petitioner has submitted that ROE has been calculated at the rate of 19.61% after grossing up the ROE with MAT rate of 20.961% as per the above Regulations. The Petitioner has further submitted that the grossed-up ROE is subject to truing up based on the effective tax rate of respective financial year applicable to the Petitioner Company.

47. The Respondent, BRPL, vide affidavit dated 16.5.2019 has submitted the following in respect of "Effective Tax Rate":-

(i) The Petitioner in his petition has mentioned the effective tax rate of 20.96% in Form 3 for each year of tariff period for which no details have been furnished. The effective tax rate is required to be computed in accordance with Regulation 25 of the 2014 Tariff Regulations. The Petitioner may be directed to furnish complete details in the working of effective tax rate along with tax audit report for financial year 2014-15 and the Petitioner may also be directed to submit the following details of Deferred tax liability claimed during 2014-19:

(a) Block wise and Plant wise deferred tax liabilities as on 31.3.2009 along with asset wise breakup details;

(b) Year on year Block wise and Plant wise depreciation as per Companies Act and Income Tax Act in respect of the assets existing as



on 31.03.2009 and deferred tax liability materialized since 31.03.2009 along with backup details;

(c) Comparison of computed depreciation as per Companies Act and Income Tax Act from the COD of the asset to 31.03.2018.

(ii) The existing Regulations provides for recovery of tax amount only on deferred tax liabilities for upto 31stMarch, 2009 whenever they materialize. Petitioner may also be directed to clarify whether it is charging the tax amount on deferred tax liabilities materializing during the period 20014-19 or it is grossing up such tax amount with effective tax rate which is not in accordance with Regulations.

(iii) This is a new transmission project and is also entitled for Tax Holiday under Section 80IA of the Income Tax Act, 1961. The benefit under this section at the option of the licensee can be claimed for any ten consecutive assessment years out of the fifteen years beginning from the year in which the enterprise begins to generate power. It is, thus, necessary that the Petitioner is directed to supply the information at regards the date from which it intends to claim the benefits of Section 80IA of the Income Tax Act, 1961?

48. In response, the Petitioner vide rejoinder dated 15.11.2019 has submitted that the Petitioner is availing tax benefits under provisions of section 80IA of Income Tax Act, 1961 for computing normal income tax. However, under Section 115JB of Income Tax Act 1961 company is liable for payment of Minimum Alternate Tax (MAT)@18.5% plus Surcharge and Cess as applicable. As per Regulation 25(3)of the 2014 Tariff Regulations, any under-recovery or over-recovery of grossed up rate on return on equity shall be adjusted at the time of truing up on the basis of actual tax paid including interest and additional demand, if any by the IT Authorities. Audit report is also required to be submitted on completion of assessment and the same shall be taken care while filing truing up. Further, as per Clause 49 of the 2014 Tariff



Regulations, the deferred tax liability before 1.4.2009 is to be recovered from the beneficiaries or the long term transmission customers/DICs, as the case may be, as and when the same gets materialized. As the present asset is under tariff period of 2014-19, the same is not applicable.

49. We have considered the submissions made by the Petitioner and the Respondents. 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. It further provides that in case the generating company or transmission licensee is paying Minimum Alternative Tax (MAT), the MAT rate including surcharge and cess will be considered for the grossing up of return on equity. Accordingly, the MAT rate applicable during 2013-14 has been considered for the purpose of return on equity, which shall be trued up with actual tax rate in accordance with Regulation 25 (3) of the 2014 Tariff Regulations.

50. Accordingly, the ROE allowed is as follows:-

Particulars	(₹ in lakh)
	Asset-1 2018-19 (Pro-rata)
Opening Equity	761.02
Addition due to Additional Capitalization	211.16
Closing Equity	972.18
Average Equity	866.60
Return on Equity (Base Rate)	15.50%
MAT rate for the FY 2013-14	20.961%
Rate of Return on Equity (Pre-tax)	19.610%
Return on Equity (Pre-tax)	101.50

Interest on Loan (IOL)



51. The IOL has been calculated as per the provisions of Regulation 26 of the 2014 Tariff Regulations as detailed below:-

- (i) Gross amount of loan, repayment of instalments and rate of interest on actual loans have been considered as per petition including additional information.
- (ii) The yearly repayment for the tariff period 2014-19 has been considered to be equal to the depreciation allowed for that year.
- (iii) Weighted average rate of interest on actual average loan worked out as per (i) above is applied on the notional average loan during the year to arrive at the interest on loan.

52. The Petitioner has submitted that the IOL has been claimed on the basis of rate prevailing as on COD and the change in interest due to floating rate of interest applicable, if any, needs to be claimed/ adjusted over the tariff block 2014-19. We have calculated IOL on the basis of rate prevailing as on the date of commercial operation. Any change in rate of interest subsequent to the date of commercial operation will be considered at the time of truing-up. The IOL is allowed considering all the loans submitted in Form-9C. The Petitioner is directed to reconcile the total Gross Loan for the calculation of weighted average Rate of Interest and for the calculation of IDC, which would be reviewed at the time of truing-up.

53. The details of IOL calculated are as follows:-

Particulars	(₹ in lakh)
	Asset-1 2018-19 (Pro-rata)
Gross Normative Loan	1775.71
Cumulative Repayment upto previous Year	0.00
Net Loan-Opening	1775.71



Addition due to Additional Capitalization	492.72
Repayment during the year	91.62
Net Loan-Closing	2176.80
Average Loan	1976.26
Weighted Average Rate of Interest on Loan	7.6473%
Interest on Loan	90.26

Depreciation

54. Depreciation has been dealt with in line of Regulation 27 of 2014 Tariff Regulations. The instant asset was put under commercial operation during 2018-19. Accordingly, it will complete 12 years beyond the tariff period 2014-19 and depreciation has been calculated annually based on Straight Line Method at the rates specified in Appendix-II to the 2014 Tariff Regulations. Details of the depreciation allowed are as under:-

Particulars	(₹ in lakh)
	Asset-1 2018-19 (Pro-rata)
Opening Gross Block	2536.73
Additional Capital expenditure	703.88
Closing Gross Block	3240.61
Average Gross Block	2888.67
Rate of Depreciation	5.3106%
Depreciable Value	2599.80
Remaining Depreciable Value	2599.80
Depreciation	91.62

Operation and Maintenance Expenses (O&M Expenses)

55. The Petitioner has claimed the O&M expenses for instant asset as per following details:-

(₹ in lakh)		
Asset	Particulars	2018-19 (Pro-rata)
Asset-1	O&M Expenses	82.07



56. The Petitioner in the instant petition has submitted that, O&M rates for the tariff period 2014-19 had been arrived on the basis of normalized actual O&M Expenses during the period 2008-09 to 2012-13. The Petitioner has further submitted that the wage revision of the employees is due during 2014-19 and actual impact of wage hike effective from a future date has not been factored in fixation of the normative O&M rates specified for the tariff block 2014-19. The Petitioner has submitted that it would approach the Commission for suitable revision in norms for O&M Expenses for claiming the impact of wage hike during 2014-19, if any.

57. The Respondent, BRPL, vide affidavit dated 16.5.2019 has submitted that as per the Petitioner the wage revision of petitioner company is due w. e. f. 01-01-2017 and the actual impact of wage hike which will be effective from a future date, has not been factored in the fixation of the normative O&M rates prescribed for the tariff block 2014-19. BRPL submits that the increase in the employee cost, if any, due to wage revision must be taken care by improvement in their productivity levels by the Petitioner so that the beneficiaries are not unduly burdened over and above the provisions made in the 2014 Tariff Regulations.

58. In response, the Petitioner vide rejoinder dated 15.11.2019 has submitted that the wage revision of the employees of the Petitioner was due w.e.f.1.1.2017 and actual impact of wage hike not factored in fixation of the normative O&M rates prescribed for the tariff block 2014-19. The scheme of wage revision applicable to CPSUs being binding on the Petitioner, the Petitioner reserved the right to approach the Commission for suitable revision in the norms for O&M expenditure for the impact of wage hike from 1.1.2017 onwards.



59. Norms for O&M expenditure for Transmission System have been specified under section 29 (4) of Tariff Regulation are as follows:-

Element	2018-19
Sub-Station: 400 kV bay (₹ in lakh per bay)	68.71

60. We have considered the submissions of Petitioner and Respondents. The O&M Expenses have been worked out as per the norms specified in the 2014 Tariff Regulations. As regards the impact of wage revision, any application filed by the Petitioner in this regard will be dealt with in accordance with the appropriate provisions of the 2014 Tariff Regulations. The Petitioner has computed normative O&M Expenses as per sub-clause (a) of clause (4) of Regulation 29 of the 2014 tariff regulations. Accordingly, the allowed O&M Expenses is given below:-

	(₹ in lakh)
Asset-1	2018-19
Details	(Pro-rata)
2 nos. of 400 kV line bay at Samba substation	82.07
Total O&M Expenses Allowed	82.07

Interest on Working Capital (IWC)

61. As per the 2014 Tariff Regulations the components of the working capital and the interest thereon are discussed hereinafter:-

a) Maintenance spares:

Maintenance spares @ 15% of Operation and maintenance expenses specified in Regulation 28.

b) O & M expenses:



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

c) Receivables:

The receivables have been worked out on the basis of 2 months of annual fixed cost as worked out above.

d) Rate of interest on working capital:

As per Clause 28 (3) of the 2014 Tariff Regulations, SBI Base Rate as on 1.4.2018(8.70%) plus 350 Bps i.e. 12.20% has been considered as the rate of interest on working capital.

62. Accordingly, the interest on working capital (IWC) is summarized as under:-

Particulars	(₹ in lakh)
	Asset-1 2018-19 (Pro-rata)
Maintenance Spares	20.61
O&M expenses	11.45
Receivables	104.76
Total	136.83
Rate of Interest	12.20%
Interest on working capital	9.97

Annual Transmission charges

63. Accordingly, the annual transmission charges being allowed for the instant assets are as under:-

Particulars	(₹ in lakh)
	Asset-1 2018-19 (Pro-rata)
Depreciation	91.62
Interest on Loan	90.26
Return on Equity	101.50
Interest on Working Capital	9.97



Particulars	Asset-1
	2018-19 (Pro-rata)
O & M Expenses	82.07
Total	375.43

Filing fee and the publication expenses

64. 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 Respondent, BRPL, vide affidavit dated 16.5.2019 has submitted that the application filing fee and the expenses incurred on publication of notices for approval of tariff, can be allowed at the discretion of the Commission under Regulation 52(1) of the 2014 Tariff Regulations. However, the Commission in its order dated 11th September, 2008 in petition No. 129 of 2005 has held that the Central Power Sector undertakings in furtherance of their business interests, are statutory required to approach the Central Commission for determination and approval of the tariff and hence declined the claim of the Central Power Sector undertakings for allowing the reimbursement of the application filing fee. Thus, the claim of the petitioner even in the present petition is liable to be rejected by the Commission.

65. In response, the Petitioner vide rejoinder dated 15.11.2019 has submitted that the petitioner has requested for reimbursement of expenditure by the beneficiaries towards petition filing fee and publication expense, in terms of Regulation 52 of 2014 Tariff Regulations. Further, the Commission in order dated 28.03.2016 in Petition No. 137/TT/2015 for determination of tariff for 2014-19 period



allowed the recovery of petition filing fee and publication of notices from the beneficiaries on pro rata basis.

66. We have considered the submissions of Petitioner and Respondents. The Petitioner has sought reimbursement of fee paid by it for filing the petition and publication expenses. 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.

License fee and RLDC Fees and Charges

67. The Petitioner has prayed to allow the Petitioner to bill and recover License fee and RLDC fees and charges, separately from the respondents. The Respondent, UPPCL, vide affidavit dated 28.2.2019 has submitted that the license fee is the onus of the Petitioner. In response, the Petitioner vide rejoinder dated 15.11.2019 has submitted that fee and charges to be paid by the Petitioner as ISTS licensee (deemed ISTS licensee) under CERC (Fee and Charges of RLDC and other matters) Regulations as amended from time to time is recoverable from the DICs as provided under clause 52(2)(a) of the 2014 Tariff Regulations.

68. We have considered the submissions of the Petitioner and Respondents. The Petitioner shall be entitled for reimbursement of license fee and RLDC fees and charges in accordance with Clause (2)(b) and (2)(a) of Regulation 52 in the 2014 Tariff Regulations.



Goods and Services Tax

69. The Petitioner has prayed for reimbursement of tax, if any, on account of implementation of GST. GST is not levied on transmission service at present and we are of the view that Petitioner's prayer is premature.

Transmission Service Agreement (TSA)

70. BRPL, vide affidavit dated 16.5.2019 has replied that the Petitioner has not filed the 'Transmission Service Agreement' between the Transmission Licensee and the Designated Inter-State Customers as per provisions of Regulation 3(63) of the 2014 Tariff Regulations. The discussions during the NRPC meetings cited by the Petitioner cannot be treated as the 'Transmission service Agreement' under Regulation 3(63) of the 2014 Tariff Regulations as these bodies are statutorily not empowered to approve the Transmission Service Agreement nor all the Discoms who are expected to pay for such tariff are its members. The Petitioner may be directed to file the 'Transmission service Agreement' as per provisions of Regulation 3(63) of the 2014 Tariff Regulations.

71. The Petitioner vide its rejoinder dated 15.11.2019 has replied to BRPL's observations and has also submitted a copy of the Model TSA dated 19.8.2011 entered into between the Petitioner and BRPL.

72. We have considered the submissions of the Petitioner and BRPL. The Commission has already dealt with the issue of TSA raised by BRPL in order dated



19.9.2018 in Petition No.206/TT/2017. The relevant portion of the order dated 19.9.2018 is as follows:

“17. As regards TSA, BRPL has submitted that as per Regulation 3(63) of the 2014 Tariff Regulations, TSA means the agreement between transmission licensee and designated inter-State transmission customers in accordance with the Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010 (hereinafter referred to as the “2010 Sharing Regulations”) and any other agreement between the transmission licensee and the long term transmission customer where the payment of transmission charges is not made through PoC mechanism under the 2010 Sharing Regulations. BRPL has submitted that accordingly, there is need to enter into another agreement for recovery of the transmission charges through PoC mechanism. In response, the Petitioner has submitted that the Petitioner has complied with the provisions of 2010 Sharing Regulations and the terms of the model TSA entered into with the designated customers including BRPL”.

18. We have considered the submissions of the Petitioner and Respondent (BRPL). As per Regulation 2(u) of the 2010 Sharing Regulations, TSA means an agreement to be entered into between the designated ISTS customers and ISTS licensee in terms of the said Regulation. Regulation 2(u) provides as under:-

“(u) Transmission Service Agreement (TSA) shall mean the agreement to be entered into between the Designated ISTS Customer(s) and ISTS Licensee(s) in terms of Chapter 6;”

“As per Regulation 13 of the 2010 Sharing Regulations, the designated ISTS customers and the CTU have to enter into new TSA or modify the existing BPTA to incorporate the new tariff and related conditions and it shall govern the provisions of transmission services and the charges for the same and the agreement be called TSA. Further, as per the said Regulation, the CTU shall notify a model TSA and it shall be the default transmission agreement and shall mandatorily apply to all the designated ISTS customers. The relevant provisions of Regulation 13 of the 2010 Sharing Regulations are as under:-

“(1) The Designated ISTS Customers and the CTU shall enter into new transmission services agreement or modify the existing Bulk Power Transmission Agreements to incorporate the new tariff and related conditions. Such agreement shall govern the provision of transmission services and charging for the same and shall be called the Transmission Service Agreement (TSA) and shall, inter alia, provide for:

(4) The final version of the Model Transmission Service Agreement, as approved by the Commission shall be notified and used as the base transmission service agreement by the ISTS Licensees.

(5) The notified Model Transmission Service Agreement shall be the default transmission agreement and shall mandatorily apply to all Designated ISTS Customers.”



“Accordingly, the Petitioner and all the DICs entered into model TSA and the Petitioner signed the model TSA with BRPL on 19.8.2011. As per clause 4 of the model TSA, the existing ISTS owned, operated and maintained by it are given in Schedule II of the model TSA. Any new ISTS, on approval of the concerned RPC, shall be intimated to the DICs and shall become part of Schedule-II of the TSA. Clause 4 of the TSA provides as follows:-

“4.0 Description of inter-State Transmission System (ISTS)

4.1 Existing ISTS

4.1.1 The list of ISTS presently owned, operated and maintained by ISTS Licensees in the country is detailed in Schedule - II.

4.2 Deemed ISTS

4.2.1 The provisions of this Agreement shall be applicable to Deemed ISTS, as detailed in Schedule – II.

4.2.2 Any additions/ deletions to the existing list as certified by the RPCs and approved by the Commission shall be intimated to the DICs by the Regional Power Committee (RPC). Such modifications shall form part of Schedule - II of this Agreement and shall be governed by the terms and conditions contained herein.

4.3 New ISTS Schemes

4.3.1 New ISTS Schemes shall be as identified in consultation with the stakeholders, by CEA and CTU.

4.3.2 Any element that may be added to the ISTS detailed in Article 4.1.1 and declared for commercial operation by the concerned ISTS Licensee will be intimated to the DICs by the ISTS Licensee or the CTU, as and when these are declared under commercial operation. Such addition shall form a part of Schedule - II of this Agreement and shall be governed by the terms and conditions as contained herein.

4.3.3 CTU shall notify all the ISTS Licensees and the DICs, as and when such element, as mentioned in Article 4.3.2 comes into operation.”

The petitioner has submitted that the DICs are intimated about the COD of the new ISTS and are included in the Scheduled II of the TSA. The petitioner has submitted that the TSA is posted on the petitioner’s website and has also submitted a copy of the same. It is observed that the petitioner has entered into a TSA as required under the provisions of 2010 Sharing Regulations and has complied with the requirement of the TSA by including the new ISTS in Schedule-II of the TSA.”



73. We observe that the Petitioner has complied with the 2010 Sharing Regulations by entering into a TSA with BRPL and has also complied with the requirement of the TSA.

Sharing of Transmission Charges

74. The Transmission charges for all the assets allowed in this order shall be recovered on monthly basis in accordance with Regulation 43 of the 2014 Tariff Regulations. The billing, collection and disbursement of Transmission Charges approved 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.

75. This order disposes of Petition No.32/TT/2019.

Sd/-
(I. S. Jha)
Member

Sd/-
(P. K. Pujari)
Chairperson

