CENTRAL ELECTRICITY REGULATORY COMMISSION NEW DELHI

Petition No. 256/TT/2018

Coram:

Shri P.K. Pujari, Chairperson
Dr. M. K. Iyer, Member
Shri I.S. Jha, Member

Date of Order: 20th May, 2019

In the matter of:

Petition for determination of transmission tariff from COD to 31.3.2019 for 1 nos. 400 kV bay each at Salem New (Dharmapuri) and Madhugiri for terminating Salem New (Dharmapuri)-Madhugiri 765 kV S/C Line-2 (Initially charged at 400 kV) being implemented under tariff based bidding and 1 no. 63 MVAR line reactor at Madhugiri end of Salem New (Dharmapuri)-Madhugiri 765 kV S/C Line-2 (Initially charged at 400 kV) being implemented under tariff based bidding under "Common Transmission Scheme associated with ISGS projects in Nagapattinam / Cuddalore area of Tamil Nadu Part-A1 (b)" in Southern Region.

And in the matter of:

Power Grid Corporation of India Limited
"Saudamini", Plot No.2, Sector-29,
Gurgaon-122001 **……Petitioner**

Vs

1. Karnataka Power Transmission Corporation Ltd.
Kaveri Bhawan, K. G.Road
Bangalore—560 009.

2. Transmission Corporation of Andhra Pradesh Ltd.
Vidyut Soudha, Khairatabad, Hyderabad-500 082.

3. Kerala State Electricity Boards, Vydyuthi Bhavanam,
Pattom, Thiruvananthapuram-695 004.

4. Tamil Nadu Electricity Board (TNEB)
NPKRR Maaligai, 800, Anna Salai,
Cennai-600002.

5. Electricity Department Government of Goa
Vidyuti Bhawan, Panaji Goa-403001.

6. Electricity Department, Government of Pondicherry,
Pondicherry -605001.

7. Eastern Power Distribution Company of Andhra Pradesh Limited
(APEPDCL), P&TColony, Seethmmadhara,
Vishakhapatnam, Andhra Pradesh.

8. Southern Power Distribution Company of Andhra Pradesh Limited
(APSPDCL) Srinivasasa Kalyana Mandapam Backside,
Tiruchanoor Road, Kesavayana Gunta,
Tirupati-517 501, Chitoor District, Andhra Pradesh.

9. Central Power Distribution Company of Andhra Pradesh Limited
(APCPDCL) Corporate Office, MintCompound, Hyderabad-500 063.

10. Northern Power Distribution Company of Andhra Pradesh Limited
(APNPDCL) NIT Petrol Pump Chaitanyapuri,
Kazipet, WARANGAL – 506 004, Andhra Pradesh

11. Bangalore Electricity Supply Company Ltd.(BESCOM)
Corporate Office, K. R.Circle, Bangalore-560 009.

12. Gulbarga Electricity Supply Company Ltd. (GESCOM)
Station Main Road, Gulbarga,Karnataka.

13. Hubli Electricity Supply Company Ltd.(HESCOM),
P.B. Road, Nava Nagar Hubli, Karnataka.

14. Mangalore Electricity Supply Company Ltd.(MESCOM)
Paradingm Plaza, A.B. Shetty Circle, Mangalore-575 001.

15. Chamundeshwari Electricity Supply Corp. Ltd. (CESC),
Corporate Office, 927, L. J. Avenue,
Ground Floor New Kantharaj Urs Road,
SaraswathiPuram, Mysore-570 009.

16. Powergrid NM Transmission Limited B-9,
Qutab Institutional Area, Katwaria Sarai
New Delhi- 110016

17. Transmission Corporation of Telangana Limited,
VidhyutSudha, Khairatabad, Hyderabad,500082 **..…Respondents**

For Petitioner: Shri S.S.Raju, PGCIL
Shri S. K. Venkatesan, PGCIL
Shri B.Dash, PGCIL
Smt Anshu lGarg, PGCIL
Shri Zafrul Hasan, P GCIL

For Respondents : Shri Vallinayagam, Advocate, TANGEDCO
Ms. Amali, Advocate, TANGEDCO
Shri R. Kathiravan, TANGEDCO

ORDER

The petitioner, Power Grid Corporation of India Ltd. (PGCIL), has filed this petition for approval of the transmission tariff for 1 no. 400 kV bay each at Salem New (Dharmapuri) and Madhugiri for terminating Salem New (Dharmapuri)- Madhugiri 765 kV S/C Line -2 (Initially charged at 400 kV) being implemented under tariff based bidding and 1 no. 63MVAR line reactor at Madhugiri end of Salem New (Dharmapuri)- Madhugiri 765 kV S/C Line -2 (Initially charged at 400 kV) being implemented under tariff based bidding (hereinafter referred to as —transmission assets) under — Common Transmission Scheme associated with ISGS projects in Nagapattinam / Cuddalore area of Tamil Nadu-Part-A1 (b) (hereinafter referred to as — transmission scheme) in Southern Region for the 2014-19 tariff block in terms of the 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 block for the assets covered under this petition.

ii) Admit the capital cost as claimed in the Petition and approve the Additional Capitalisation incurred / projected to be incurred.

iii) Tariff may be allowed on the estimated completion cost, the completion cost for the asset covered under instant Petition is within the overall project cost.

iv) Allow the Petitioner to approach this Commission for suitable revision in the norms for O&M expenditure for claiming the impact of wage hike, if any, during period 2014-19.

v) 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.

vi) 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 Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014, and other expenditure (if any) in relation to the filing of petition.

vii) Allow the petitioner to bill and recover Licensee fee and RLDC fees and charges, separately from the respondents in terms of Regulation 52 Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014.

viii) 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.

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 tariff up to 90% of the Annual Fixed Charges in accordance with clause 7 (i) of Regulation 7 Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for purpose of inclusion in the PoC charges.

xi) Allow the petitioner to bill Tariff from anticipated DOCO and also the petitioner may be allowed to submit revised Certificate and tariff Forms (as per the Relevant Regulation) based on actual DOCO.

Background:

3. The Investment Approval for the transmission project was accorded by the Board of Directors of the petitioner in its 307th meeting held on 11.11.2014

(communicated vide Memorandum No. C/CP/ Nagapattinam-Part-A I (b) dated 18.11.2014) at an estimated cost of ₹ 7429 lakh including an IDC of ₹463 lakh, price level - August,2014.

4. The petitioner was entrusted with the instant transmission scheme and it was discussed and agreed on 16.11.2010 in the 31st meeting of Standing Committee on Power System Planning in Southern Region. The same was approved in the special meeting of SRPC held on 25.11.2010. The scheme was also approved for the reactive compensation in transmission lines during 37th meeting of Standing Committee on power system planning held on 31.7.2014. The Empowered Committee on Transmission during its 25th meeting held on 1.2.2011 at Central Electricity Regulatory Commission, New Delhi has recommended that the present scope of the scheme has to be implemented by the petitioner.

Scope of Work:

5. The scope of work covered under the transmission system is broadly as follows:-

a) 2 Nos. 400 kV bays each at Nagapattinam pooling station and Salem New (Dharmapuri) for terminating Nagapattinam Pooling Station-Salem New (Dharmapuri) 765 kV D/C Line (Initially charged at 400 kV) being implemented under tariff based bidding.
b) 1 No. 400 kV bay each at Salem New (Dharmapuri) and Madhugiri for terminating Salem New (Dharmapuri)-Madhugiri 765 kV S/C Line-2 (Initially charged at 400 kV) being implemented under tariff basedbidding.
c) 1 No. 63 MVAR line reactor at Nagapattinam Pooling Station and Salem New (Dharmapuri) each for both circuits of Nagapattinam Pooling Station-Salem New (Dharmapuri) 765 kV D/C Line (Initially charged at 400 kV) being implemented under tariff based bidding.
d) 1 No. 63 MVAR line reactor at Madhugiri end of Salem New (Dharmapuri)-Madhugiri 765 kV S/C Line -2 (Initially charged at 400 kV) being implemented under tariff based bidding.

6. The details of the other assets covered in the instant transmission system and the petition under which these are covered are as follows:-

S. No.	Name of Asset	Schedule Commissioning as per IA	Actual COD	Covered in Petition No.
1	2 Nos. 400 kV bays each at Nagapattinam pooling station and Salem New (Dharmapuri) for terminating Nagapattinam Pooling Station-Salem New (Dharmapuri] 765 kV D/C Line (Initially charged at 400 kV) being implemented under tariff based bidding and 1 no. 63 MVAR line reactor at Nagapattinam Pooling Station and Salem New (Dharmapuri) each for both circuits of Nagapattinam Pooling Station - Salem New (Dharmapuri) 765 kV D/C Line (Initially charged at 400 kV).	11.5.2017	23.10.2016	214/TT/2016
2	1 No. 400 kV bay each at Salem New (Dharmapuri) and Madhugiri for terminating Salem New (Dharmapuri)- Madhugiri 765 kV S/C Line -2 (Initially charged at 400 kV) being implemented under tariff based bidding and 1 no. 63 MVAR line reactor at Madhugiri end of Salem New (Dharmapuri)- Madhugiri765 kV S/C Line -2 (Initially charged at 400 kV).	11.5.2017	26.01.2019	Covered under instant petition

7. The petition was heard on 13.12.2018 and 19.2.2019. The Commission vide RoPs dated 13.12.2018 and 19.2.2019 directed the petitioner to submit additional information on affidavit. The petitioner has submitted the additional information vide affidavits dated 7.1.2019, 15.2.2019 and 15.3.2019.

8. The petitioner has claimed annual transmission charges for the instant asset as under:-

(₹ in lakh)

Particulars	2018-19
Depreciation	20.76
Interest on Loan	21.53
Return on Equity	23.13
Interest on working capital	2.61
O & M Expenses	25.12
Total	93.15

9. The details of the Interest on Working Capital claimed by the petitioner for the instant assets are as under:-

(₹ in lakh)

Particulars	2018-19
Maintenance Spares	20.61
O & M Expenses	11.45
Receivables	84.93
Total	116.99
Rate of Interest	12.20%
Interest	2.61

10. 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 Act.

11. The Respondent No. 4, Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO) has filed reply vide affidavit dated 05.10.2018. The petitioner has filed its rejoinder to the reply vide affidavit dated 12.12.2018. TANGEDCO has submitted its written submissions dated 17.02.2019 and the petitioner vide affidavit dated 15.03.2019 has submitted its comments to it. Having heard the petitioner and the respondent and after carefully perusing the records and the submissions made by the parties vide affidavits dated 10.8.2018, 6.12.2018, 12.12.2018, 7.1.2019,

15.2.2019 & 15.3.2019 and also TANGEDCO reply dated 5.10.2018, 17.2.2019, we proceed to dispose of the petition.

12. The petitioner has submitted that the instant petition has been filed for determination of tariff for 2 nos. of 400 kV bays each at Salem and Madhugiri Substations and the associated transmission line is being executed under TBCB line. The petitioner has submitted that the asset has been put into commercial operation on 26.1.2019. The RLDC certificate dated 14.2.2019, CEA certificate dated 6.9.201, Auditor's Certificate dated 11.02.2019 and tariff forms along with cash IDC qua the said asset have also been furnished vide affidavit dated 15.2.2019. The petitioner had initially submitted that as against the total approved apportioned cost of ₹25.54 crore, the estimated completion cost is only ₹21.59 crore. Then it had claimed anticipated CoD as 01.07.2018. Subsequently, the petitioner has claimed actual CoD as 26.01.2019 and estimated completion cost as ₹ 22.15 crore.

13. The petitioner has submitted that there is time over-run of 20 months and 15 days in case of the instant asset as the petitioner was aligning the COD of the instant asset with the TBCB line and the reasons for time over-run are explained in the petition.

<u>Date of Commercial Operation (COD)</u>

14. Regulation 4(3) of the 2014 Tariff Regulations provides as under:

> "4. Date of Commercial Operation: The date of commercial operation of a generating station or unit or block thereof or a transmission system or element thereof shall be determined as under:
>
> xxx
>
> (3) Date of commercial operation in relation to a transmission system shall mean the date declared by the transmission licensee from 0000 hour of which an element of

the transmission system is in regular service after successful trial operation for transmitting electricity and communication signal from sending end to receiving end:

xxx

Provided that:

(i) Where the transmission line or substation is dedicated for evacuation of power from a particular generating station, the generating company and transmission licensee shall endeavour to commission the generating station and the transmission system simultaneously as far as practicable and shall ensure the same through appropriate Implementation Agreement in accordance with Regulation 12(2) of these Regulations:

(ii) In case a transmission system or an element thereof is prevented from regular service for reasons not attributable to the transmission licensee or its supplier or its contractors but is on account of the delay in commissioning of the concerned generating station or in commissioning of the upstream or downstream transmission system, the transmission licensee shall approach the Commission through an appropriate application for approval of the date of commercial operation of such transmission system or an element thereof.

xxx

xxx"

15. As per the Investment Approval dated 11.11.2014 (communicated vide Memorandum No. C/CP/ Nagapattinam Part A1 (b) dated 18.11.2014), the scheduled COD of the instant assets was 11.5.2017. The petitioner had initially claimed anticipated date of commercial operation of the instant assets as 01.07.2018 in the petition. Later, vide affidavit dated 15.02.2019, has submitted that the actual date of commercial operation was 26.01.2019 and in support thereof the petitioner has submitted RLDC charging certificate dated 14.02.2019. The petitioner has further submitted that the instant assets were put into commercial operation on 26.01.2019 to match with the commissioning of the 765 kV S/C (initially charged at 400 kV level) Salem New (Dharmapuri)-Madhugiri transmission line-2 being implemented under the TBCB.

16. TANGEDCO in its reply submitted that the petitioner has not placed on record the factual details of status of generators, target beneficiaries, the action taken with regard to review of the schemes as mandated in the regulations and methodology to recover the cost of the instant assets from the defaulting generator. Instead, the petitioner has suppressed the fundamental facts and proceeded to declare COD of the assets without the approval of the Commission. In response, the petitioner in its rejoinder has submitted that the petitioner has duly completed the scope of requisite transmission assets for enabling power flow. The petitioner has further submitted that the transmission line is being implemented through Tariff based competitive bidding and petitioner has impleaded SPV of TBCB. The petitioner also submitted that the issues related to the utilization, sharing and connectivity has already taken into cognizance by the Commission vide order dated 19.12.2017 in Petition No. 214/TT/2017. The petitioner has submitted that the COD of the instant assets was declared only when the connecting transmission network including the transmission line being implemented under TBCB, was ready. The petitioner has further submitted that the COD of the instant asset has been declared in accordance with the provisions of Tariff Regulations and has carried out periodic Joint Coordination Committee meetings with the IPPs and has duly appraised the respective RPC about the development and issues faced by it.

17. TANGEDCO in response to the rejoinder of the petitioner has also submitted that the COD of a transmission line cannot be declared if the line is not put to beneficial use. In response, the petitioner submitted that the said transmission line is being used by TANGEDCO to draw power from IL&FS. Further, there has not been

any violation of provisions of regulations framed by the Commission during planning, implementation and execution of the said transmission project.

18. Taking into consideration the submissions made by the petitioner and the respondent, the RLDC certificates, CEA certificates and CMD certificate submitted by the petitioner in support of trial operation, the date of commercial operation is approved as on 26.01.2019 as per the 2014 Tariff Regulations.

Capital Cost

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

> *"**9. Capital Cost**: (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."*

20. The petitioner vide affidavit dated 15.02.2019 has submitted the Auditor Certificate dated 11.02.2019. The details of approved apportioned cost, capital cost as on the date of commercial operation and estimated additional capital expenditure incurred or projected to be incurred during 2018-19 along with estimated completion cost for the instant asset covered in the petition and considered for the purpose of computation of tariff are as under:-

(₹ in lakh)

Approved apportioned cost	Cost incurred up to actual COD	Estimated additional capital expenditure	Total estimated completion cost upto 31.3.2019
		2018-19	
2554.11	2155.37	59.68	2215.05

Cost Over-Run/Variation

21. The FR approved apportioned cost of the Asset-I is ₹2554.11 lakh and the total claimed estimated completion cost is ₹2215.05 lakh as on 31.3.2020 for Asset-I. Therefore, there is no cost over-run.

Time Over-run

22. As per Investment Approval, the commissioning schedule of the project was 30 months from the date of Investment Approval dated 11.11.2014. The investment approval was accorded on 11.11.2014 and, therefore, the scheduled date of commercial operation was 11.5.2017 against which subject asset was put under commercial operation on 26.01.2019. Thus, there is a time over run of 20 months and 15 days (626 days).

23. The petitioner, with regard to time over run, has submitted that in order to avoid the idling of resources, PGCIL has planned to make the bays ready to match with commissioning of Salem New (Dharmapuri) - Madhugiri 765 kV S/C Line -2

(Initially charged at 400 kV) being implemented under tariff based bidding which was expected by June, 2018. This was submitted by the petitioner when it had claimed anticipated CoD of the assets as 01.07.2018.

24. The Commission vide RoP dated 13.12.2018 directed the petitioner to submit the details of time over run. The petitioner vide affidavit dated 15.3.2019 has submitted the chronology of events as under:

No.	Task Name	Schedule		Actual		Remarks
		From	To	From	To	
1	Investment approval by Board	11.11.14		11.11.14		-
2	LOA	10.12.14	10.12.14	17.12.14	17.12.14	-
3	Supplies	16.02.15	16.02.17	14.06.15	12.08.16	-
4	Foundation	16.03.15	31.03.17	23.05.15	07.09.17	-
5	Erection	15.05.15	10.04.17	01.07.15	11.11.17	-
6	Testing and Commissioning	10.04.17	10.05.17	27.08.16	11.01.18- CEA clearance. 31.01.18- Test Charged. 26.01.19-Commissioned along with TBCB line.	

25. We have considered the submissions of the petitioner. With regard to assets covered in the instant petition, the Petitioner has submitted that the assets are delayed due to matching with the commissioning of the Salem New (Dharmapuri) - Madhugiri 765 kV S/C Line -2 executed by Powergird NM transmission Limited. The Petitioner vide RoP dated 19.2.2019 was directed to submit the valid documentary evidence. However, the Petitioner has not submitted the documentary evidence in support of its readiness on Scheduled COD, i.e., CEA certificate, etc. Hence, time

over run of 626 days, is not condoned as the petitioner has not been able to bring out that the delay was not attributable to the petitioner.

Interest During Construction (IDC)

26. The petitioner has claimed Interest During Construction (IDC) of ₹225.48 lakh for instant asset as per Auditors Certificate dated 11.02.2019. The loan details submitted in Form-9C for period 2014-19 and date of drawl submitted in IDC statement have been considered for the purpose of calculating IDC. As the time over-run of 626 days is not condoned, the IDC for the said period is disallowed. Accordingly, the IDC details considered for the purpose of tariff calculation are as follows:-

(₹ in lakh)

IDC claimed as per certificate	IDC considered as on COD	IDC discharged Up to COD	IDC disallowed
225.48	54.75	54.75	170.73

Incidental Expenditure During Construciton (IEDC)

27. The petitioner has claimed Incidental Expenditure During Construction (IEDC) of ₹ 81.50 lakh as per Auditors Certificate dated 11.02.2019. The incidental expenditure incurred and paid during construction is within the percentage on Hard Cost as indicated in the Abstract Cost Estimate. As the time over-run of 626 days is not condoned, the IEDC for the said period is disallowed. Accordingly, the IEDC details considered for the purpose of tariff calculation are as follows:-

(₹ in lakh)

IEDC claimed as per certificate	IEDC considered as on COD	IEDC discharged Up to COD	IEDC disallowed
81.50	41.65	41.65	39.85

Initial Spares

28. Regulation 13(d) of the 2014 Tariff Regulations provides that initial spares shall be capitalized as a percentage of plant and machinery cost up to cut-off date, subject to following ceiling norms:-

> "(d) Transmission System Transmission line: 1.00%
> Transmission sub-station (Green Field): 4.00%
> Transmission sub-station (Brown Field): 6.00%"

29. This has been dealt in line with Regulation 13 of the 2014 Tariff Regulations. The petitioner has claimed initial spares amounting to ₹ 104.94 lakh corresponding to sub-station. The petitioner's claim of ₹104.94 lakh towards initial spare is within the ceiling limit of 6.00% of the capital cost as specified in the 2014 Tariff Regulations. Thus, the same is considered for the purpose of tariff in this order. The details of initial spares claimed and allowed are given below:-

(₹in lakh)

Sub-Station				
Total Cost (P&M)*	Initial Spares claimed	Initial spares as % of Capital Cost	Initial Spare worked out	Initial Spares allowed
1908.07	104.94	6.00%	115.09	104.94

*P&M cost is exclusive of IDC, IEDC, land cost and cost of civil works.

Capital Cost allowed as on COD

30. Based on the above, the capital cost allowed as on COD under Regulation 9(2) of 2014 Tariff Regulation is summarized as under:-

(₹ in lakh)

Capital Cost claimed as on COD (a)	IDC & IEDC disallowed (b)	Un-discharged IEDC (c)	Un-discharged Initial Spare as on COD (d)	Capital Cost allowed as on COD [e=[a-(b+c+d)]
2155.37	210.58	0.00	0.00	**1944.79**

Additional Capital Expenditure

31. Clause (1) of Regulation 14 of the 2014 Tariff Regulations provides as under:-

"(1) The capital expenditure in respect of the new project or an existing project incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:
(i) Undischarged liabilities recognised to be payable at a future date;
(ii) Works deferred for execution;
(iii) Procurement of initial capital spares within the original scope of work, in accordance with the provisions of Regulation 13;
(iv) Liabilities to meet award of arbitration or for compliance of the order or decree of a court; and
(v) Change in Law or compliance of any existing law:
Provided that the details of works asset wise/work wise included in the original scope of work along with estimates of expenditure, liabilities recognized to be payable at a future date and the works deferred for execution shall be submitted along with the application for determination of tariff."

32. Clause (13) of Regulation 3 of the 2014 Tariff Regulations defines "cut-off date" as under:-

"cut-off date" means 31st March of the year closing after two years of the year of commercial operation of whole or part of the project, and in case the whole or part of the project is declared under commercial operation in the last quarter of the year, the

cut-off date shall be 31st March of the year closing after three years of the year of commercial operation".

33. The cut-off date for the instant assets is 31.3.2022 as per Clause (13) of Regulation 3 of the 2014 Tariff Regulations. The claim of additional capital expenditure has been dealt in accordance with Regulation 14.

34. The petitioner has claimed ACE as per Auditor Certificate dated 11.2.2019 for Assets I under Regulation 14(1) (i) & (ii) of the 2014 Tariff Regulations towards balance and retention including accrual of IDC. The petitioner has also furnished Form 7 vide affidavit dated 15.3.2019. The additional capital expenditure claimed and allowed is summarised below:

Additional Capital Expenditure claimed 2018-19	Additional Capital Expenditure allowed 2018-19
85.19	59.68

Capital cost as on 31.3.2019

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

(₹ in lakh)

Capital cost allowed as on COD	Additional Capital Expenditure 2018-19	Total Estimated Completion Cost up to 31.3.2019
1944.79	59.68	2004.47

Debt- Equity ratio

36. Clause 1 and 5 of Regulation 19 of the 2014 Tariff Regulations specifies as follows:-

> *"(1) For a project declared under commercial operation on or after 1.4.2014, the debtequity ratio would be considered as 70:30 as on COD. If the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan:*
>
> *Provided that:*
>
> *i. where equity actually deployed is less than 30% of the capital cost, actual equity shall be considered for determination of tariff:*
>
> *ii. the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment:*
>
> *iii. any grant obtained for the execution of the project shall not be considered as a part of capital structure for the purpose of debt : equity ratio.*
>
> ***Explanation**:- The premium, if any, raised by the generating company or the transmission licensee, as the case may be, while issuing share capital and investment of internal resources created out of its free reserve, for the funding of the project, shall be reckoned as paid up capital for the purpose of computing return on equity, only if such premium amount and internal resources are actually utilised for meeting the capital expenditure of the generating station or the transmission system."*
>
> *"(5) Any expenditure incurred or projected to be incurred on or after 1.4.2014 as may be admitted by the Commission as additional capital expenditure for determination of tariff, and renovation and modernisation expenditure for life extension shall be serviced in the manner specified in clause (1) of this regulation."*

37. The Petitioner has claimed Debt:Equity ratio of 70:30 as on the date of commercial operation. Debt:Equity Ratio is considered as per Regulation 19 of the 2014 tariff Regulations. The details of Debt : Equity ratio in respect of the instant assets as on the date of commercial operation and as on 31.3.2019 are as under:-

(₹in lakh)

Particulars	Capital cost as on COD		Capital cost as on 31.3.2019	
	Amount	**%**	**Amount**	**%**
Debt	1361.35	70.00	1403.13	70.00
Equity	583.43	30.00	601.34	30.00
Total	**1944.79**	**100.00**	**2004.47**	**100.00**

Return on Equity (RoE)

38. Clause (1) and (2) of Regulation 24 and Clause (2) of Regulation 25 of the 2014 Tariff Regulations specify as under:-

"24. Return on Equity:

(1) Return on equity shall be computed in rupee terms, on the equity base determined in accordance with regulation 19.

(2) Return on equity shall be computed at the base rate of 15.50% for thermal generating stations, transmission system including communication system and run of the river hydro generating station, and at the base rate of 16.50% for the storage type hydro generating stations including pumped storage hydro generating stations and run of river generating station with pondage:

Provided that:

(i) in case of projects commissioned on or after 1st April, 2014, an additional return of 0.50 % shall be allowed, if such projects are completed within the timeline specified in Appendix-I:

(ii) the additional return of 0.5% shall not be admissible if the project is not completed within the timeline specified above for reasons whatsoever:

(iii) additional RoE of 0.50% may be allowed if any element of the transmission project is completed within the specified timeline and it is certified by the Regional Power Committee/National Power Committee that commissioning of the particular element will benefit the system operation in the regional/national grid:

(iv) the rate of return of a new project shall be reduced by 1% for such period as may be decided by the Commission, if the generating station or transmission system is found to be declared under commercial operation without commissioning of any of the Restricted Governor Mode Operation (RGMO)/ Free Governor Mode Operation (FGMO), data telemetry, communication system up to load dispatch centre or protection system:

(v) as and when any of the above requirements are found lacking in a generating station based on the report submitted by the respective RLDC, RoE shall be reduced by 1% for the period for which the deficiency continues:

(vi) additional RoE shall not be admissible for transmission line having length of less than 50 kilometers."

“25. Tax on Return on Equity:

(1) The base rate of return on equity as allowed by the Commission under Regulation 24 shall be grossed up with the effective tax rate of the respective financial year. For this purpose, the effective tax rate shall be considered on the basis of actual tax paid in the respect of the financial year in line with the provisions of the relevant Finance Acts by the concerned generating company or the transmission licensee, as the case may be. The actual tax income on other income stream (i.e., income of non generation or non transmission business, as the case may be) shall not be considered for the calculation of “effective tax rate”.
(2) Rate of return on equity shall be rounded off to three decimal places and shall be computed as per the formula given below:
Rate of pre-tax return on equity = Base rate / (1-t)

Where “t” is the effective tax rate in accordance with Clause (1) of this regulation and shall be calculated at the beginning of every financial year based on the estimated profit and tax to be paid estimated in line with the provisions of the relevant Finance Act applicable for that financial year to the company on pro-rata basis by excluding the income of non-generation or non-transmission business, as the case may be, and the corresponding tax thereon. In case of generating company or transmission licensee paying Minimum Alternate Tax (MAT), “t” shall be considered as MAT rate including surcharge and cess.”

39. The petitioner has submitted that RoE has been calculated at the rate of 19.610% after grossing up the RoE with MAT rate of 20.96% 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.

40. We have considered the submissions made by the petitioner and Regulation 24 read with Regulation 25 of the 2014 Tariff Regulations provides for grossing up of RoE with the effective tax rate for the purpose of RoE. 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. Accordingly, the RoE allowed is as follows:-

(₹ in lakh)

Particulars	**2018-19 (Pro rata 26.1.19 to 31.3.19)**
Opening Equity	583.43
Addition due to Additional Capitalization	17.90
Closing Equity	601.34
Average Equity	592.38
Return on Equity (Base Rate)	15.50%
Tax rate for the year 2013-14 (MAT)	20.96%
Rate of Return on Equity (Pre-tax)	19.610%
Return on Equity (Pre-tax)	**20.69**

Interest on Loan (IoL)

41. Regulation 26 of the 2014 Tariff Regulations are provides as under:-

"(1) The loans arrived at in the manner indicated in regulation 19 shall be considered as gross normative loan for calculation of interest on loan.
(2) The normative loan outstanding as on 1.4.2014 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2014 from the gross normative loan.
(3) The repayment for each of the year of the tariff period 2014-19 shall be deemed to be equal to the depreciation allowed for the corresponding year/period. In case of decapitalization of assets, the repayment shall be adjusted by taking into account cumulative repayment on a pro rata basis and the adjustment should not exceed cumulative depreciation recovered upto the date of decapitalisation of such asset.
(4) Notwithstanding any moratorium period availed by the generating company or the transmission licensee, as the case may be, the repayment of loan shall be considered from the first year of commercial operation of the project and shall be equal to the depreciation allowed for the year or part of the year.
(5) The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio after providing appropriate accounting adjustment for interest capitalized: Provided that if there is no actual loan for a particular year but normative loan is still outstanding, the last available weighted average rate of interest shall be considered: Provided further that if the generating station or the transmission system, as the case may be, does not have actual loan, then the weighted average rate of interest of the generating company or the transmission licensee as a whole shall be considered.
(6) The interest on loan shall be calculated on the normative average loan of the year by applying the weighted average rate of interest."

42. 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.

43. Accordingly the calculations of IOL have been worked out as under:-

(i) 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.

(ii) The depreciation of every year has been considered as Normative repayment of loan of concerned year;

(iii) The weighted average rate of interest on actual loan portfolio has been worked out by considering the Gross amount of loan, repayment & rate of interest as mentioned in the petition, which has been applied on the normative average loan during the year to arrive at the interest on loan.

44. Based on above, details of Interest on Loan considered and allowed for the subject Assets are as follows:-

(₹in lakh)

Particulars	**2018-19 (Pro rata 26.1.19 to 31.3.19)**
Gross Normative Loan	1361.35
Cumulative Repayment upto Previous Year	0.00
Net Loan-Opening	1361.35
Addition due to Additional Capitalisation	41.78
Repayment during the year	18.57
Net Loan-Closing	1384.56
Average Loan	1372.96
Weighted Average Rate of Interest on Loan	7.8781%
Interest on Loan	**19.26**

Depreciation

45. Regulation 27 of the 2014 Tariff Regulations with regard to depreciation specifies as below:-

> "27. Depreciation:
>
> (1) Depreciation shall be computed from the date of commercial operation of a generating station or unit thereof or a transmission system including communication system or element thereof. In case of the tariff of all the units of a generating station or all elements of a transmission system including communication system for which a single tariff needs to be determined, the depreciation shall be computed from the effective date of commercial operation of the generating station or the transmission system taking into consideration the depreciation of individual units or elements thereof. Provided that effective date of commercial operation shall be worked out by considering the actual date of commercial operation and installed capacity of all the units of the generating station or capital cost of all elements of the transmission system, for which single tariff needs to be determined.
>
> (2) The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission. In case of multiple units of a generating station or multiple elements of transmission system, weighted average life for the generating station of the transmission system shall be applied. Depreciation shall be chargeable from the first year of commercial operation. In case of commercial operation of the asset for part of the year, depreciation shall be charged on pro rata basis.
>
> (3) The salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the capital cost of the asset: Provided that in case of hydro generating station, the salvage value shall be as provided in the agreement signed by the developers with the State Government for development of the Plant: Provided further that the capital cost of the assets of the hydro generating station for the purpose of computation of depreciated value shall correspond to the percentage of sale of electricity under long-term power purchase agreement at regulated tariff: Provided also that any depreciation disallowed on account of lower availability of the generating station or generating unit or transmission system as the case may be, shall not be allowed to be recovered at a later stage during the useful life and the extended life.
>
> (4) Land other than the land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset.
>
> (5) Depreciation shall be calculated annually based on Straight Line Method and at

rates specified in Appendix-II to these regulations for the assets of the generating station and transmission system: Provided that the remaining depreciable value as on 31st March of the year closing after a period of 12 years from the effective date of commercial operation of the station shall be spread over the balance useful life of the assets.

(6) In case of the existing projects, the balance depreciable value as on 1.4.2014 shall be worked out by deducting the cumulative depreciation as admitted by the Commission upto 31.3.2014 from the gross depreciable value of the assets."

46. The instant transmission Asset was put under commercial operation during 2018-19. Accordingly, it will complete 12 years after 2018-19. As such, depreciation has been calculated annually based on Straight Line Method at the rates specified in Appendix-II to the 2014 Tariff Regulations.

47. In accordance with Regulation 27, the depreciation with respect to the subject Asset is as follows:

(₹ in lakh)

Particulars	**2018-19 (Pro rata 26.1.19 to 31.3.19)**
Gross Block as on COD	1944.79
Addition during 2014-19 due to Projected Additional Capitalisation	59.68
Gross Block as on 31st March	2004.47
Average Gross Block	1974.63
Rate of Depreciation	5.2800%
Depreciable Value	1777.16
Remaining Depreciable Value	1777.16
Depreciation	**18.57**

O & M Expenses:

48. The petitioner has claimed O&M expense for the instant asset amounting to ₹ 25.12 lakh for the year 2018-19. The petitioner has submitted that norms for O&M Expenses for the tariff period 2014-19 have been arrived at on the basis of

normalized actual O&M Expenses during the period 2008-13. The petitioner has further submitted that the wage revision of the employees of the petitioner is due during the 2014-19 tariff period and actual impact of wage hike, which will be effective at a future date, has not been factored in fixation of the normative O&M rate specified for the tariff period 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.

49. Norms for O&M expenditure for Transmission System have been specified under Regulation 29 (4) of the 2014 Tariff Regulation are as follows:-

(₹in lakh)

Element	**2018-19**
400 kV sub-Station	68.71

50. We have considered the submissions made by the petitioner. The O&M Expenses have been worked out as per the norms of O&M Expenses specified in the 2014 Tariff Regulations. Accordingly, the allowable O&M Expenses for the year 2018-19 is given below:-

(₹in lakh)

Element	**2018-19 (Pro rata 26.1.19 to 31.3.19)**
1 no. 400 kV bays at Salem New (Dharmapuri) and 1 no. 400 kV bays at Madhugiri	24.47
Total	**24.47**

Interest on Working Capital

51. 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) The working capital shall cover:

(c) Hydro generating station including pumped storage hydro electric generating station and transmission system including communication system:

(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"

(3) Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.4.2014 or as on 1st April of the year during the tariff period 2014-15 to 2018-19 in which the generating station or a unit thereof or the transmission system including communication system or element thereof, as the case may be, is declared under commercial operation, whichever is later.

(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;"

52. As per 2014 Tariff Regulations the components of the working capital and the interest thereon is mentioned below:-

a) Maintenance spares:

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

b) O & M expenses:

O&M 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 (8.70%) as on 01.04.2018Plus 350 Bps i.e. 12.20% have been considered as the rate of interest on working capital for the asset.

53. Accordingly, the interest on working capital is summarized as under:-

(₹ in lakh)

Particulars	**2018-19 (Pro rata 26.1.19 to 31.3.19)**
Maintenance Spares	20.61
O & M expenses	11.45
Receivables	79.94
Total	**112.01**
Interest Rate	12.20%
Interest	**2.43**

<u>Annual Transmission Charges</u>

54. In view of the above, the annual transmission charges allowed for the instant asset is summarized as under:-

(₹in lakh)

Particulars	**2018-19 (Pro rata 26.1.19 to 31.3.19)**
Depreciation	18.57
Interest on Loan	19.26
Return on Equity	20.69
Interest on Working Capital	2.43
O & M Expenses	24.47
Total	**85.42**

<u>Filing Fee and Publication Expenses</u>

55. 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 is 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

56. The petitioner has requested to allow the petitioner to bill and recover License fee and RLDC fees and charges, separately from the 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), respectively, of Regulation 52 of the 2014 Tariff Regulations.

Goods and Services Tax

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

Sharing of Transmission Charges

58. The respondent, TANGEDCO has raised certain issues in their reply/reply to rejoinder of the petitioner and written submissions as under:

i) The IPPs, namely, (i) IL&FS Tamil Nadu Power Company Limited (hereinafter referred to as IL&FS) and (ii) PEL Power Limited should have been impleaded as respondents in the instant petition.

ii) The assets covered in the petition are part of the common transmission system associated with ISGS projects in Nagapattinam / Cuddalore Area of Tamil Nadu as furnished below and was approved in the 31st meeting of the Standing Committee of Southern Region held on 16.11.2010:

Common Transmission System for projects located in Nagapattinam / Cuddalore area:

(a) New 765/400 kV Pooling station at Nagapattinam (GIS) with 4x1500 MVA transformers
(b) Nagapattinam Pooling Station – Salem 765 kV D/c line
(c) Salem – Madhugiri 765 kV S/c line – 2
(d) Madhugiri – Narendra 765 kV D/c line
(e) Kolhapur – Padghe 765 kV D/c one circuit via Pune
(f) Provision of 2x1500 MVA, 765/400 kV transformers each at Madhugiri and Salem
(g) Charging of Salem – Madhugiri 765 kV S/c line – 1 (planned with Tuticorin LTOA projects) at its rated voltage
(h) LILO of Neyveli – Trichy 400 kV S/c line at Nagapattinam Pooling Station for interim arrangement which later shall be bypassed.

iii) Among the above elements Sl. No. (b) to (d) were executed through TBCB and other elements were executed by PGCIL on cost plus. There is no specific approval from the Standing Committee with regard to execution of the line bays covered under the instant petition by the petitioner.

iv) The transmission system was designed by PGCIL to evacuate power from the following private power plants based on their connectivity and LTA application:

Sl. No.	**Applicant**	**IC(MW)**	**LTA applied for (MW)**	**Time Frame**	**Quantum allocated in the region**		
Under Regulation 2004					**SR**	**WR**	**NR**
1.	NSL Power Pvt. Ltd.	1320	800	2014	267	267	266
2	PEL Power Ltd.	1050	987	June, 2013	700	0	287
3	IL&FS Tamil Nadu Power Co. Ltd.	1200	1150	June, 2013	575	575	0

v) TANGEDCO has raised issues associated with projects implemented for evacuation of power from IPPs. The National Electricity Policy, Electricity Act, 2003 and the CERC Regulations emphasize development of coordinated economic efficient transmission system which should be commensurate with the implementation of generation projects. But, the mandate is not complied with by the petitioner in the transmission schemes associated with IPPs which includes the instant asset also.

vi) The petitioner had not disclosed the status of the IPPs and firming up of target beneficiaries with the existing DICs. The scheme was evolved based on the commitment of the IPPs. However, as per the statement of the petitioner, among the IPPs only IL&FS and PELPL were showing some progress. TANGEDCO had entered into PPA for 540 MW with IL&FS. The remaining LTA quantum of the IPPs was untied. In spite of it, the petitioner went on to implement the schemes.

vii) The Empowered Committee vide the minutes of the 25th meeting held on 1st February, 2010 while approving the schemes associated with IPPs to be executed under TBCB and on cost plus basis has emphasized as under:

> *"Before awarding the scheme to the prospective Transmission service provider, it should be ensured that the associated generation projects have made satisfactory progress in order to avoid creation of redundant transmission assets"*

viii) In spite of the above requirements under Regulation 27 of CERC (Procedure, Terms and Conditions for grant of Transmission Licence and other related matters) Regulations, 2009, the petitioner has failed to ascertain the requirement of the whole transmission system intended to develop for evacuation of power without any possibility of bringing the generators and end beneficiaries into the network connectivity.

ix) In the instant case, the main connectivity between Salem Pooling station and Madhugiri Pooling station has not been completed by the petitioner under TBCB route. There is no upstream connectivity or no sink for the IPPs at Salem pooling station. The Salem –Madhugiri 765 kV S/C line -1 is being executed under the common transmission system for evacuation of power from IPPs in Tuticorin area. Among the two IPPs, M/s Ind Bharath Power (Madras) Ltd. has abandoned its project and M/s Coastal Energen has been allowed to relinquish the LTA of 542 MW. There is no requirement for the Salem –Madhugiri 765 kV S/C line -1. Similarly, M/s IL&FS has applied for relinquishment of 610 MW. The other IPP M/s PEL has abandoned the project.

x) In absence of both generation as well as target beneficiaries, the intended transmission system will not serve its purpose rather it will pileup the financial burden on the existing DICs. There is no upstream connectivity at 765 kV level and no target beneficiary at Salem Pooling station or beyond. This condition makes the instant asset redundant and uneconomical.

xi) TANGEDCO has submitted that it has been raising the above issues in all the Forums like SRPC, Commercial Sub Committee, and Standing Committee as well as in all the petitions associated with transmission assets pertaining to the above IPPs.

xii) POSOCO may be directed to properly account such YTCs so that bilateral billing is raised by the petitioner against the IPPs in proportion to their LTA in line with provisions of Regulation 8(5) of the 2010 Sharing Regulations. It has further prayed that the transmission charges proportionate to relinquished

LTA quantum should not be recovered from the existing DICs till the petitioner identifies a LTA customer or recover the relinquishment charges from the IPPs.

59. In response, the petitioner vide affidavit dated 12.12.2018 has submitted as follows:

i) It was entrusted with the implementation of bays alongwith reactive compensation on cost plus basis for TBCB lines Nagapattinam-Salem and Salem-Madhugiri under said transmission scheme on cost plus basis. Accordingly, the investment approval of the project was accorded and the instant assets were scheduled to be commissioned within 30 months from date of approval of Board of Directors i.e. 11th November, 2014 with best efforts matching with the transmission lines being implemented under Tariff based competitive bidding. Accordingly, PGCIL has planned to utilize the instant assets matching with commissioning of associated Salem New (Dharampuri)-Madhugiri 765 kV line-2 (initially charged at 400 kV).

ii) The grant of LTA quantum and the system was agreed collectively in the stated 31st Standing Committee Meeting of Southern Region but the respondent TANGEDCO is trying to shift the entire burden of designing, implementing and coordinating the instant scope of transmission system on to the Petitioner.

iii) TANGEDCO has started utilizing the transmission system for evacuation of power through a PPA. Hence, the requirement under Tariff Regulations for inclusion of transmission asset in PoC has been met. As such, Respondent

No. 4 is continuously drawing 558 MW from the implemented transmission system without actually paying transmission charges.

iv) It has constructed a 765 kV sub-station along with the 765 kV transmission lines. The 400 kV bays have been implemented after due deliberations and approvals from the RPCs. The minutes of the meeting have been placed on record by the petitioner in the main petition. Hence, the claim of Respondent No. 4 that Petitioner is not following the approved scheme is untenable. The petitioner has installed 400 kV bays but the same shall be replaced with 765 kV bays as and when the capacity needs to be stepped-up.

v) The regulatory process was followed while implementing the said transmission assets. Moreover, the COD of the instant asset shall be declared in accordance with the provisions of Tariff Regulations, and hence no system studies were required to declare COD. Thus there is no modification in scope of project as claimed by Respondent No. 4. Further, the petitioner has taken all possible measures to ensure that the IPPs abide by their promises made in the LTA Agreement. The petitioner has further submitted that apart from approaching this Commission, the petitioner along with CTU is exploring alternate possible usage of transmission systems.

vi) The Commission has already considered the issues raised by the respondent for the subject scheme vide its order dated 19.12.2017 in Petition no: 214/TT/2016, i.e., 2 Nos. 400 kV bays each at Nagapattinam pooling station and Salem New (Dharmapuri) for terminating Nagapattinam Pooling Station-Salem New (Dharmapuri] 765 kV D/C Line (Initially charged at 400 kV) being implemented under tariff based bidding and 1 no. 63 MVAR line reactor at

Nagapattinam Pooling Station and Salem New (Dharmapuri) each for both circuits of Nagapattinam Pooling Station – Salem New (Dharmapuri) 765 kV D/C Line (Initially charged at 400 kV) under "Common Transmission scheme associated with ISGS projects in Nagapattinam/Cuddalore area of Tamil Nadu -Part-A1 (b) " in Southern Region.

60. TANGEDCO has made further submissions vide affidavit dated 17.2.2019 as under:

i) There is clear demarcation of the role and responsibilities of PGCIL in its capacity as CTU and Transmission licensee. Both the divisions are functioning under one company and there exists conflict of interest. TANGEDCO being one of the DICs of Southern Region and the sole beneficiary of the generator M/s IL&FS at present, as such is badly affected by the wrongful acts of the petitioner. The petitioner has been neglecting its responsibilities while implementing the subject transmission scheme as a Transmission licensee as laid down under Regulation 27(1) of the CERC (Grant of Connectivity, long Term Access and Medium term Open Access in Inter-State Transmission and Related matters) Regulations, 2009.

ii) CTU should be more responsible in terms of implementation of transmission schemes in an optimal way so as to match with the commissioning schedule of the generator. Until commissioning of the generation project, the evacuation lines could not be brought to beneficial use by any means.

iii) The cost of the redundant asset will increase the tariff burden of the end consumers without any justification or beneficial use. The petitioner has never brought the generators into picture, which are responsible for preventing the subject assets being put into beneficial use. The mandate of Section 38 (2) of Act, 2003 and the regulations require the petitioner to coordinate the commissioning of transmission lines with the commissioning of the generating units.

iv) The statement of the petitioner as *“the entire transmission system has been implemented to facilitate power flow on to various beneficiaries of Southern Region, which has commenced the operationalisation of 540 MW from IL&FS by TANGEDCO”* is not correct. TANGEDCO is the only beneficiary availing 540 MW from IL&FS which is being evacuated through the LILO of both the circuits of Neyveli – Trichy 400 kV lines. There is no target beneficiary to supply beyond the State periphery as intended in the BPTA. The Network strengthening has also been carried out at Neyveli end to cater to this additional injection. If IL&FS was having PPA with TANGEDCO alone, the connectivity could have been done through State network.

v) TANGEDCO has placed its reliance on the judgment of Appellate Tribunal for Electricity in Appeal No. 151 of 2015 to contend that when a transmission system is envisaged for a particular generator and the generator defaults, the burden of payment of transmission charges is on the generator who is responsible for the consequences faced by the distribution licensees connected to the transmission network.

61. In response to the TANGEDCO's contentions in affidavit dated 17.2.2019, the petitioner vide affidavit dated 15.3.2019, has made the following submissions:

i) The Petitioner, PGCIL, is a deemed transmission licensee under the provisions of the Electricity Act, 2003 whereas it performs functions of Central Transmission Utility under Section 38 of the Electricity Act, 2003. The Commission has observed in numerous cases that mismatch between generation and transmission is not always unavoidable and generator/transmission licensee can go ahead for declaring COD where the delay of other party is beyond control. The function of transmission licensee attracts huge financial investments and cannot always be withheld/postponed indefinitely while CTU discharges its regulatory functions.

ii) It was entrusted with the task of constructing 400 kV bays at Salem New (Dharmapuri) & Madhugiri ends and 1 no. 63 MVAR line reactor at Madhugiri end on cost plus basis for terminating Salem New (Dharmapuri)- Madhugiri 765 kV S/C Line -2 (Initially charged at 400 kV) being implemented under tariff based competitive bidding process. Commercial operation for the said scope of works has been declared following due process matching with commissioning of associated transmission line with power flow from /to various nodes at both ends. The petitioner has submitted that Salem New (Dharmapuri) & Madhugiri transmission line is part of meshed network of Southern Region and not directly linked with Generator IL &FS and PELPL.

iii) The asset covered in the instant petition is part of the High Capacity Power Transmission Corridor-XI (Nagapattinam/Cuddalore corridor) (HCPTC-XI). The HCPTC-XI was planned for the LTOA applications received by CTU from the IPPs located in the Nagapattinam/Cuddalore area in Tamil Nadu. The transmission system evolved for evacuation of power included following system:

a) New 765/400 kV Pooling station at Nagapattinam (GIS) (initially charged at 400 kV and to be upgraded at 765 kV later on)

b) Nagapattinam Pooling Station – Salem (new) 765 kV D/c line (initially charged at 400 kV)

c) Salem – Madhugiri 765 kV S/c line – 2 (initially charged at 400 kV)

d) LILO of Neyveli – Trichy 400 kV S/c line at Nagapattinam Pooling Station for interim arrangement which later shall be bypassed

iv) As per the discussions during the 11th meeting of Southern Region Constituents for LTOA applications / 31st Standing Committee meeting of Southern Region held on 16.11.2010, LTOA was granted to three applicants. However, only PELPL and IL&FS had signed BPTA and submitted construction stage Bank Guarantees. The transmission system was reviewed in the 12th meeting of Southern Region Constituents for LTOA applications / 32nd Standing Committee meeting of Southern Region held on 8.6.2011 wherein looking into consideration that PELPL & IL&FS generation projects were progressing, it was decided to implement the transmission system in phases and charge the entire 765 kV corridor at 400 kV level initially and depending upon the progress of the generation project, the corridor could be charged at its rated voltage of 765 kV level. The above system was referred to the Empowered Committee on Transmission for implementation of the system which was discussed in the 25th meeting of the Empowered Committee on Transmission held on 1.2.2011 wherein the Transmission System for the purpose of implementation was segregated into three packages as per the following details :-

Package-A (to be implemented through TBCB route)

- Nagapattinam Pooling Station – Salem 765 kV D/c line
- Salem – Madhugiri 765 kV S/c line

Package-C (to be implemented through TBCB route)

- Madhugiri – Narendra 765 kV D/c line
- Kolhapur – Padghe 765 kV D/c line (one ckt. Via Pune)

Package-B (to be implemented through regulated tariff mechanism)

- Narendra - Kolhapur 765 kV D/c line
- Establishment of Nagapattinam GIS (2x1500MVA) 765/400 kV substation initially to be operated at 400 kV level along with reactors and LILO
- Establishment of Salem (2x1500 MVA) 765/400 kV substation along with reactors
- Establishment of Madhugiri (2x1500 MVA) 765/400 kV substation along with reactors.
- Establishment of Narendra (GIS) (2x1500 MVA) 765/400 kV substation initially to be operated at 400 kV level along with reactors.
- Establishment of Kolhapur (GIS) (2x1500 MVA) 765/400 kV substation initially to be operated at 400 kV level along with reactors

v) The implementation of the above transmission system was again discussed in the 27th Meeting of Empowered Committee on Transmission held on 06.09.2011. The committee was appraised about the progress of the generation projects and the committee recommended that the bidding process for the Package-A, which inter-alia included immediate evacuation from

Nagapattinam/Cuddalore, may be taken-up for bidding. It was also decided that **Package-C** mentioned above shall not be taken-up for bidding as of now. At the same time, the CTU also approached Commission for grant of regulatory approval for the subject transmission system in absence of firmed PPAs by the IPPs that had been granted LTA. In the said Petition for grant of Regulatory approval, the Respondent in the instant case was also one of the Respondents. The Commission while granting regulatory approval for the scheme vide order dated 13.12.2011 in Petition No. 154/MP/2011 observed as under:

"15. xxx

xxx

The petitioner in its affidavit dated 3.10.2011 has submitted details regarding the progress of nine High Capacity Power Transmission Corridors (HCPTC) for which regulatory approval was granted vide order dated 31.05.2011 in petition no. 233/2009. After perusal of the progress report, we note that the progress of the generating stations and the transmission corridors is satisfactory. With regard to the progress of the work on the generating stations covered under HCPTC-XI, the petitioner has submitted that LTA capacity of 1560 MW (IL & FS – 1200 MW and PPN – 360 MW) is likely to materialize with reasonable certainty. Moreover, being a green field area, the Nagapattinam corridor is required even if one of the generating stations materializes. The petitioner has proposed that HCPTC-XI for IPPs in Nagapattinam area may be allowed to be taken up for implementation and commissioning of the elements of the transmission systems would be in phases keeping in view the progress of generating units.
xxx
xxx
20. The petitioner has submitted that as per the report of site visit of the IPPs, in case of one generating station out of four power plants, i.e. IL&FS, physical activities like, construction of site office, construction of substation for construction power etc. are under progress. In other three cases, there is no physical activity except fencing work at PEL Power Ltd. EPC orders were awarded by IL&FS and PPN Power, and in the other two cases, it is under process. "

21.It is observed that the work of IL&FS (1200 MW) is in progress and there is possibility of implementation of PPN Power (1080 MW). Total LTA granted in this corridor is 3297 MW. Keeping in view the petitioner's submission that this *transmission system would be required even if one generation project is materialised and the RFQ process for one of the trunk lines has already been started, the implementation of HCPTC-XI be taken up by the petitioner.”*

vi) As per the approval of the transmission system in meetings of Standing Committee/RPC and its regulatory approval by the Commission, the competitive bidding process for portion to be implemented under TBCB route was initiated by the Bid process coordinator. During the process it was reported by the BPC that M/s PEL Power Ltd., one of the two LTA customers who had signed BPTA and submitted construction BG, have refused to sign the TSA. The CTU then advised the BPC that the subject transmission system, being a greenfield project, shall be required to be developed even if one of the generation projects gets materialized. Therefore, the evacuation system of generation project of IL & FS cannot be jeopardized due to the non-commissioning of the other generation project of PELPL. Accordingly, the BPC was advised to go ahead with the bidding process with one LTA customer viz. IL&FS Tami Nadu Power Ltd.

vii) The CTU was aware of the regulatory requirement of the LTA Customers to sign PPA for at least 50% of the capacity prior to augmentation of the transmission system as identified for grant of LTA. The generation projects were progressing in various generation complexes including IL&FS Tamil Nadu in the Cuddalore area and PPAs could not be signed due to non-availability of the Case-I biddings by the respective States. Therefore, the CTU approached this Commission through petition 154/MP/2011 about the requirement of High Capacity Power Transmission Corridor (HCPTC-XI). Respondent, TANGEDCO, who was one of the parties to the said petition, never brought their reservations for the implementation of transmission system.

viii) From the initial planning stage itself, the LILO of Neyveli – Trichy 400 kV lines at Nagapattinam Substation was interim arrangement to provide initial Connectivity for drawl of start-up power to the IPP generation projects with the suitable by-pass arrangement. This LILO is to be by-passed upon completion of the proposed transmission system as interconnection of Neyveli generation complex through this LILO was enhancing the fault level of Neyveli complex and crossing the threshold design limit of 40kA. However, as some of the IPP generation projects have delayed, the LILO is still continuing and the same is planned to be re-stored with the Neyveli TS-II 2nd expansion (2x660 MW).

ix) As per the 2010 Sharing Regulations, the transmission charges for the capacity firmed up through long term PPA is paid by the beneficiary and the transmission charges for the balance untied capacity is paid by the generation project who have availed LTA on target region. Therefore, the petitioner has been presenting the correct picture with regard to sharing of transmission charges. Now in the changed scenario, IPPs had resorted to relinquishment of LTAs in accordance with their right under the 2009 Connectivity Regulations, most likely to avoid liability towards payment of transmission charges. Therefore, the CTU has recommended that adequate relinquishment charges be levied on the relinquishing parties to bring parity to the other LTA customers and has filed the Petition No. 92/MP/2015 in this matter. The Commission vide order dated 08.03.2019 in Petitioner No. 92/MP/2015 has laid down a methodology for determination of the relinquishment charges and CTU is working out the relinquishment charges in accordance with the same. The CTU in accordance with the earlier directions in the Petition is keeping the construction phase Bank Guarantees alive for the IPPs who have relinquished their LTA towards recovery of relinquishment charges.

62. TANGEDCO has submitted that the instant asset was developed for the generators including IL&FS and PELPL. However, IL&FS and PELPL are not impleaded as respondents in the instant petition and the petitioner has not given any reason for their non-impleadment in spite of a query raised by this Commission. TANGEDCO has submitted that the instant transmission system was envisaged in particular for four IPPs who have not come up except for IL&FS. The IPPs have not signed the LTA and there are no identified beneficiaries. TANGEDCO is purchasing 540 MW of power from IL&FS. TANGEDCO submitted that the remaining transmission corridor is redundant and the transmission charges for that portion should not be loaded in the POC. TANGEDCO further submitted that the generators at whose instance the transmission system was developed should be made liable to pay the transmission charges, as was held by the Commission vide order dated 6.11.2018 in Petition No. 261/MP/2017. TANGEDCO further submitted that the Appellate Tribunal in Appeal No. 151 of 2015 has affirmed the similar view.

63. We have considered the submissions of the petitioner and TANGEDCO. PGCIL has filed the instant petition for determination of tariff for 1 no. 400 kV bay each at Salem New (Dharmapuri) and Madhugiri for terminating Salem New (Dharmapuri) - Madhugiri 765 kV S/C Line -2 (Initially charged at 400 kV) and 1 no. 63 MVAR line reactor at Madhugiri end of Salem New (Dharmapuri)- Madhugiri 765

kV S/C Line -2 (Initially charged at 400 kV) under "Common Transmission scheme associated with ISGS projects in Nagapattinam/Cuddalore area of Tamil Nadu. The assets covered in the instant petition form part of the High Capacity Power Transmission Corridors-XI (HCPTC-XI).

64. The regulatory approval for HCPTC –XI was granted by the Commission vide order dated 13.12.2011 in Petition No 154/MP/2011. The trunk transmission corridor was to be developed under TBCB route and the pooling stations/sub-stations along with interconnection with the grid were to be implemented under the cost plus basis.

65. The status of the projects in connection with HCPTC XI was noted by the Commission in its order dated 13.12.2011 in Petition No 154/MP/2011 as under:

> *"19. The petitioner has submitted the following with regard to the progress of work on corridor XI: IPPs who have been granted LTA in the Nagapattinam/Cuddalore area and have signed BPTA and submitted Bank Guarantee are IL&FS Power Company Ltd (1200 MW) with LTA of 1150 MW and PEL Power Ltd (1050 MW) with LTA of 987 MW. Besides these, grant of Connectivity/LTA to two more generation projects viz. NSL Nagapatnam Power &Infratech (1320 MW) with LTA of 800 MW and PPN Power (1080 MW) with LTA of 360 MW has been finalized in the 12thConnectivity/LTA meeting held on 08.06.2011 at New Delhi.*
>
> *BPTAs for the subject transmission system were signed by the petitioner before 5 January 2011. However, in line with the decisions of the Empowered Committee, the trunk transmission corridor is proposed to be developed under the Tariff based bidding and the pooling stations/Substations along with their interconnection with the grid would be implemented by the petitioner under cost plus basis.*
>
> *The RFQ for package-A of the trunk transmission corridor viz. Nagapattinam - Salem 765 kV D/c line and Salem–Maduhgiri 765 kV S/c line for implementation through tariff based competitive bidding has already been issued and bids have been opened.*
>
> *The time schedule specified in the RFQ for the scheme has been given as 36 months from the effective date as per the TSA approved by MOP. Therefore, assuming that the RFP process and effective transfer to IPTC is achieved by March, 2012, then the likely commissioning date for the system would be March, 2015.*
>
> *The petitioner shall implement the associated substations/pooling stations and their interconnection to the grid matching with the above time schedule.*
>
> *The studies for evolution of transmission system was discussed and finalised in consultation with CEA, generation developers and various utilities. It was agreed that*

the charges of the transmission system would be borne by the generation developers till the time beneficiaries are firmed up and agree to bear its transmission charges.

As the synchronous operation of SR and NEW grid by 2013-14 through Raichur–Sholapur 765 kV 2xS/c lines is being achieved, it is desirable that Narendra–Kolhapur 765 kV D/c link should be available by that timeframe for smooth synchronization. Accordingly, the Narendra–Kolhapur section alongwith necessary interconnections has been decided to be delinked from generation development in the Cuddalore/Nagapattinam area and is being taken up separately as regional system strengthening scheme (SRSS-XVII). The 765 kV operation of this link shall be undertaken matching with the progress of generation projects in Cuddalore/Nagapattinamarea.

The subject transmission system is required to be taken up for implementation immediately.

20. The petitioner has submitted that as per the report of site visit of the IPPs, in case of one generating station out of four power plants, i.e. IL&FS, physical activities like, construction of site office, construction of sub station for construction power etc. are under progress. In other three cases, there is no physical activity except fencing work at PEL Power Ltd. EPC orders were awarded by IL&FS and PPN Power, and in the other two cases, it is under process.

21. It is observed that the work of IL&FS (1200 MW) is in progress and there is possibility of implementation of PPN Power (1080 MW). Total LTA granted in this corridor is 3297 MW. Keeping in view the petitioner's submission that this transmission system would be required even if one generation project is materialized and the RFQ process for one of the trunk lines has already been started, the implementation of HCPTC-XI be taken up by the petitioner."

66. While granting regulatory approval, this Commission, in Order dated 13.12.2011 in Petition No.154/MP/2011, observed that even if one generation project is materialized, the petitioner should implement the assets under the instant transmission system.

67. It is observed that this Commission granted approval for construction of the HCPTC XI on the basis of the submissions of the petitioner that the transmission system is required even if one generation project is materialized.

68. It is further observed that 400 kV bays at Salem New (Dharmapuri) & Madhugiri ends and 1 no. 63MVAR line reactor at Madhugiri end is for terminating Salem New (Dharmapuri)- Madhugiri 765 kV S/C Line -2 (Initially charged at 400 kV)

being implemented under tariff based competitive bidding process. The petitioner has submitted that the Salem New (Dharmapuri) & Madhugiri transmission line is part of meshed network of Southern Region and, therefore, is being used by beneficiaries of the Southern Region.

69. The Commission observes that two generation projects have not materialised and PELPL has relinquished the LTA capacity. As PELPL has relinquished the LTA capacity, it has been decided in Order dated 12.7.2016 in Petition No. 315/MP/2013, that the relinquishment charges shall be paid by PELPL according to the decision in Petition No. 92/MP/2015. Relevant portion of the order dated 12.7.2016 is extracted as under:

> *"34.We have considered the submission of the petitioner. It is noted that the petitioner vide its letter dated 16.12.2011 requested PGCIL to defer the requirement of present transmission system associated with the IPPs of Nagapattinam/Cuddalore area-Package A (Nagapattinam-Salem-Madhugiri). Subsequently, the petitioner also requested PGCIL to consider its requirement for the second pooling station proposed in the near future when NSL, EMPEE, Sindya Power and Chettinad power, etc., achieve progress. The proposed transmission system refers to the 2nd Pooling station which was proposed by PGCIL in the meeting held on 2.12.2011 and which was also mentioned by the petitioner in its communication dated 16.12.2011. It is further noticed that the petitioner vide letter dated 24.1.2012 stated that they are very much interested in the construction of the power plant and require the proposed transmission system. It appears from the letters of the petitioner that the petitioner never wanted to abandon the project and it was only seeking deferment of the requirement of present transmission system to the proposed transmission system. However, the petitioner has prayed for refund of bank guarantee of ₹ 49.35 crore in the petition. This implies that the petitioner was actually seeking relinquishment of LTA granted to it, else the BG would have been subsisting till it is replaced by payment security mechanism at the operationalization of LTA as per applicable Regulations. Since the petitioner sought return of bank guarantee first time on 26.7.2013, this date shall be treated as request date of relinquishment sought. Regulation 18 (1) (b) of the Connectivity Regulations provides for relinquishment of access right in case the long term customer has not availed access right for at least 12 (twelve) years. In this case, the petitioner sought for relinquishment of access right vide letter dated 26.7.2013 as stated above. As per the Connectivity Regulations, the long term customer needs to submit application for relinquishment to CTU at least 1 year prior to the date from which the applicant desires to relinquish the access right. However, the petitioner may seek relinquishment without any notice period, where it needs to bear 66% of estimated transmission charges for the period falling short of 1 year under 2nd proviso to Regulation 18 (1) (b). In such a case, the relinquishment shall be effective from 26.7.2013. In addition to above, the petitioner*

needs to bear 66% of estimated transmission charges for Stranded Capacity for 12 years as per Connectivity Regulations. The payment of the relinquishment charges shall be decided by the Commission after considering the recommendations of the Committee formed vide order dated 28.8.2015 in Petition No.92/MP/2015."

70. The Commission in Order dated 8.3.2019 in Petition No. 92/MP/2015 has prescribed a methodology for determination of relinquishment charges and directed CTU to work out the relinquishment charges in accordance with the methodology. Accordingly, the relinquishment charges, if any, recovered from PELPL shall be adjusted towards the transmission charges of the instant assets as held in the said order.

71. Since the instant asset is the part of Meshed network, the billing, collection and disbursement of the transmission charges approved shall be governed by the provisions of Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, as amended from time to time, as provided in Regulation 43 of the 2014 Tariff Regulations.

72. This order disposes of Petition No.256/TT/2018.

Sd/-	Sd/-	Sd/-
(I.S.Jha) **Member**	**(Dr. M. K. Iyer)** **Member**	**(P. K. Pujari)** **Chairperson**