

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No.247/TT/2017

Coram :

Shri P.K. Pujari, Chairperson

Dr. M. K. Iyer, Member

Shri I.S. Jha, Member

Date of Order: 10th of January, 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:** 1X500 MVA, 765/400 kV Transformer as spare ICT at Agra Sub-station, **Asset-II:** 1X500 MVA, 765/400 kV Transformer as spare ICT at Fatehpur Sub-station, **Asset-III:** 765/400 kV,500 MVA, single phase Auto Transformer as spare ICT at Jhatikra sub-station and **Asset-IV:** 765/400 kV, 333 MVA, single phase Auto Transformer as spare ICT at Bhiwani sub-station under "Spare 765/400 kV Transformers for 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 Ltd.
Vidyut Bhawan, Vidyut Marg, Jaipur-302005
2. Ajmer Vidyut Vitran Nigam Ltd.
132 kV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar, Jaipur-302017

3. Jaipur Vidyut Vitran Nigam Ltd.
132 kV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar, Jaipur-302017
4. Jodhpur Vidyut Vitran Nigam Ltd.
132 kV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar, Jaipur-302017
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 - 147 001
7. Haryana Power Purchase Centre
2nd Floor, Shakti Bhawan, Sector-6
Panchkula-134 109
8. Power Development Deptt.,
Govt. of J&K,
Mini Secretariat, Jammu
9. Uttar Pradesh Power Corporation Ltd.
10th Floor, Shakti Bhawan Extn,
14, Ashok Marg, Lucknow - 226 001
10. Delhi Transco Ltd.
Shakti Sadan, Kotla Road (Near ITO),
New Delhi-110 002
11. BSES Yamuna Power Ltd. (BYPL),
Shakti Kiran Building, Karkardooma,
Delhi-110 092.
12. BSES Rajdhani Power Ltd. (BRPL) ,
BSES Bhawan, Nehru Place,
New Delhi

13. North Delhi Power Ltd.
Power Trading & Load Despatch Group
Cennet Building,
Adjacent to 66/11 kV Pitampura - 3
Grid Building, Near P.P. Jewellers
Pitampura, New Delhi - 110034
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

...Respondents

Parties present:

For Petitioner:

Shri S. S.Raju, PGCIL
Shri A.K.Verma, PGCIL
Shri Ved Prakash Rastogi, PGCIL
Shri B.Dash, PGCIL

For Respondent:

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

ORDER

The present petition has been filed by Power Grid Corporation of India Ltd. ("the Petitioner") for determination of tariff for **Asset-I**: 1X500MVA, 765/400 kV Transformer as spare ICT at Agra Sub-station, **Asset-II**: 1X500MVA, 765/400 kV Transformer as spare ICT at Fatehpur Sub-station, **Asset-III**: 765/400 kV,500 MVA, single phase Auto Transformer as spare ICT at Jhatikra sub-station and **Asset-IV**:

765/400 kV, 333 MVA, single phase Auto Transformer as spare ICT at Bhiwani sub-station under “Spare 765/400 kV Transformers for 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 tariff up to 90% of the Annual Fixed Charges in accordance with clause 7 (i) of Regulation 7 of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for purpose of inclusion in the POC charges.*
- iv. Condone the delay in completion of subject assets on merit of the same being out of the control of Petitioner in line with CERC Regulations’2014 12 (2)(i) “uncontrollable factors”.*
- 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 of 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 of 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 approach Hon'ble Commission for suitable revision in the norms for O&M expenditure for claiming the impact of wage hike, if any, during period 2014-19.*
- x. *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.*

and pass such other relief as Hon'ble 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 "Spare 765/400 kV Transformers for Northern Region" was accorded by the Board of Directors of the Petitioner in 311th meeting held on 4.3.2015 for ₹6356 lakh including IDC of ₹364 lakh based on October, 2014 price level (communicated vide Memorandum No. C/CP/Spare Transformers in NR dated 9.3.2015).

4. The scope of the scheme was discussed and agreed upon in 31st Standing

Committee Meeting (SCM) of Northern Region (NR) held on 2.1.2013 and 31st meeting of NRPC held on 24.7.2014.

5. The scope of work covered under the project “Spare 765/400KV Transformers for Northern Region” is as follows:-

Substation

- (i) Three (3) nos. single phase 765/400 kV ICTs of 500 MVA capacity as spare ICTs (to be kept in ready for charging condition and to be located at Jhatikara, Agra and Fatehpur Sub-stations).
- (ii) One (1) no. single phase 765/400 kV ICT of 333 MVA capacity as spare ICT (to be kept in ready for charging condition and to be located at Bhiwani Sub-station).

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

S.N.	Asset	Petition no
1	Asset-I: 1X500 MVA, 765/400 kV Transformer as spare ICT at Agra Sub-station	Entire project scope covered under instant petition
2	Asset-II: 1X500 MVA, 765/400 kV Transformer as spare ICT at Fatehpur Sub-station	
3	Asset-III: 765/400 kV, 500 MVA, single phase Auto Transformer as spare ICT at Jhatikra sub-station	
4	Asset-IV: 765/400 kV, 333 MVA, single phase Auto Transformer as spare ICT at Bhiwani sub-station	

7. The Petitioner vide affidavit dated 3.9.2019 has submitted that Asset-IV is anticipated to be commissioned in 2019-24 tariff block, therefore, fresh petition will be filed in due course of time under 2019 Tariff Regulations. Accordingly, the particulars regarding Asset-IV are not being perused further and we are proceeding

to determine the transmission tariff only for Asset-I, II & III.

8. The details of the annual transmission charges claimed by the Petitioner are as under:-

(₹ in lakh)

Particulars	Asset-I		Asset-II		Asset-III
	2017-18 (Pro-rata)	2018-19	2017-18 (Pro-rata)	2018-19	2018-19 (Pro-rata)
Depreciation	39.68	76.36	17.14	66.14	47.86
Interest on Loan	39.04	69.98	17.87	65.41	49.32
Return on Equity	44.21	85.09	19.10	73.70	53.32
Interest on Working Capital	2.68	5.04	1.18	4.47	3.12
O&M Expenses	0.00	0.00	0.00	0.00	0.00
Total	125.61	236.47	55.29	209.72	153.62

9. The details of the interest on working capital (IWC) claimed by the Petitioner are as under:-

(₹ in lakh)

Particulars	Asset-I		Asset-II		Asset-III
	2017-18 (Pro-rata)	2018-19	2017-18 (Pro-rata)	2018-19	2018-19 (Pro-rata)
Maintenance Spares	0.00	0.00	0.00	0.00	0.00
O&M expenses	0.00	0.00	0.00	0.00	0.00
Receivables	22.84	39.41	18.43	34.95	34.01
Total	22.84	39.41	18.43	34.95	34.01
Rate of Interest	12.80%	12.80%	12.80%	12.80%	12.80%
Interest on Working Capital	2.92	5.04	1.18	4.47	3.12

10. The Petitioner has served the 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) and BRPL (Respondent no 12) vide their

affidavits dated 8.5.2018 and 31.1.2018, respectively and the Petitioner vide its affidavits dated 31.5.2018 and 28.2.2018 filed its rejoinder to the reply of UPPCL and BRPL, respectively, in the matter.

11. The Petition was heard on 12.9.2019 and the Commission reserved the order in the Petition.

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

13. This order has been issued after considering the main petition dated 6.11.2017 and Petitioner's affidavits dated 26.2.2018, 5.3.2018, 27.4.2018, 21.8.2018, 3.9.2019, 11.9.2019, 1.10.2019 and reply dated 31.5.2018 & 28.2.2018 of the Respondents, UPPCL and BRPL, respectively.

Analysis and Decision

Date of Commercial Operation (COD)

14. The Petitioner has claimed the COD of instant assets as under:-

S. N.	Asset	COD as per the original petition dated 6.11.17	revised COD as per affidavit dated 3.9.19
1	Asset-I: One no of 500 MVA, 765/400 kV Transformer as spare ICT at Agra sub-station	1.5.2017 (Actual)	1.5.2017 (Actual)
2	Asset-II: One no of 500 MVA, 765/400 kV Transformer as spare ICT at Fatehpur sub-station	1.10.2017 (Proposed)	1.10.2017 (Actual)
3	Asset-III: 765/400 KV,500MVA, single phase Auto Transformer as spare ICT at Jhatikra sub-station	1.11.2017 (Anticipated)	30.6.2018 (Actual)
4	Asset-IV: 765/400 KV, 333 MVA, single phase Auto Transformer as spare ICT at Bhiwani sub-station	1.11.2017 (Anticipated)	31.5.2020 (Anticipated)

15. In support of COD, the Petitioner has submitted following documents:-
- a) **Asset-I:** Self-declaration COD letter dated 17.5.2017 and CMD certificate as required under grid code.
 - b) **Asset-II:** Self-declaration COD letter dated 26.2.2018 and CMD certificate as required under grid code.
 - c) **Asset-III:** Self-declaration COD letter dated 26.7.2018 and CMD certificate as required under grid code.
16. The petitioner has claimed the COD for Assets-I, II and III as 1.5.2017, 1.10.2017, 30.6.2018. The Commission vide ROP dated 17.9.2019 directed the Petitioner to submit RLDC certificate for successful completion of trial operation in accordance with the 2014 Tariff Regulations and CEA certificate under Regulation 43 of CEA (Measures related to safety & electric supply) Regulations, 2010 for the assets covered in the instant petition.
17. In response, the Petitioner vide affidavit dated 1.10.2019 has submitted that instant assets are in the nature of spares and are kept as cold spare, therefore, RLDC and CEA certificate is not applicable for the assets covered in the instant petition. The Petitioner has submitted copy of meeting of 31st NRPC meeting held on 2.1.2013 and 31st SCM held on 24.7.2014, wherein approval of RPC for installation of spare ICTs was agreed by the members. In support of COD, the Petitioner has submitted self-declaration COD letter and CMD Certificate certifying that assets are capable of functioning at their full capacity as per relevant grid standard and grid code.
18. During hearing on 7.3.2018, the Commission pointed out that a Committee

has been set up in the Petition no. 38/TT/2017 to go into the requirement of regional spares vis-à-vis their current availability and to submit a report and observed that the tariff for the instant assets will be considered after the report is submitted by the Committee.

19. The Committee on Regional spares has recommended as follows:-

“ xxxxx

29. As per CEA regulation, there is provision for 1Ø spare transformer/ reactor. However, no such norm exists for 3 phase spares. Most of the 400 KV and below class transformers and reactors installed in POWERGRID station are of 3 phase. Considering this and keeping in view the ageing of equipment and lead time for replacement, requirement of 3Ø spares should be met after approval in RPC for the same. Any additional requirement of 1Ø cold spare transformers and reactors should also be met after approval in RPC.

30. The Committee is also of the view that the transformer or reactor taken out after its replacement by augmentation/ capacity addition should be considered as the regional spares after approval of the RPC.”

20. Accordingly, taking into consideration the certificates and the minutes of the 31st NRPC meeting held on 2.1.2013 and 31st SCM held on 24.7.2014, wherein approval of RPC for installation of spare ICTs was agreed by the members; the COD for Asset-I, II and III is approved as 1.5.2017, 1.10.2017 and 30.6.2018, respectively.

21. Further, with regard to Asset-IV, it is observed that the same is anticipated to be commissioned in 2019-24 tariff period. Accordingly, we direct the Petitioner to file a separate petition claiming tariff for Asset-IV as per the 2019 Tariff Regulations.

Capital Cost

22. 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.”*

23. The Petitioner has submitted Audited Cost Certificates dated 12.9.2017, 2.3.2018 and 7.8.2018 for the instant Asset-I, II and III, respectively. The capital cost incurred as on COD and additional capitalization projected to be incurred, as follows:-

(₹ in lakh)

Asset	Apportioned Approved Cost (FR)	Cost up to COD	Projected Expenditure for FY			Estimated Completion Cost
			2017-18	2018-19	2019-20	
Asset-I	1677.20	239.70	1163.36	86.48	0.00	1489.54
Asset-II	1677.20	242.57	823.16	378.76	0.00	1444.49
Asset-III	1603.53	1084.84	0.00	262.31	112.42	1459.56

Cost Over-run

24. The Petitioner has submitted that against the apportioned approved cost (FR) instant Asset-I, II and III of ₹1677.20 lakh, ₹1677.20 lakh and ₹1603.53 lakh the estimated completion cost is ₹1489.54 lakh, ₹1444.49 lakh and 1459.56 lakh, respectively, so the estimated capital cost is within the apportioned approved cost. Therefore, there is no cost over-run in the instant asset.

25. We have considered the submissions of the Petitioner. The estimated completion cost of the instant asset is within the apportioned approved cost as per FR. Accordingly, the capital cost claimed by the Petitioner as on COD and additional capitalization upto 31.3.2019 has been considered for tariff calculation, subject to scrutiny of IDC/ IEDC and Initial spares, hereinafter, as per following details:-

(₹ in lakh)

Asset	Apportioned Approved Cost (FR)	Cost up to COD	Projected Expenditure for FY		Estimated Completion Cost
			2017-18	2018-19	
Asset-I	1677.20	239.70	1163.36	86.48	1489.54
Asset-II	1677.20	242.57	823.16	378.76	1444.49
Asset-III	1603.53	1084.84	-	262.31	1347.15

Time over-run

26. As per the Investment Approval (IA), the transmission scheme was scheduled to be commissioned within 24 months from the date of investment approval i.e. 4.3.2015. Accordingly, the Commissioning Schedule comes to 4.3.2017. The

Petitioner has submitted the details of COD claimed and delay occurred in commissioning of the instant asset as per following:-

Asset	Scheduled COD	Actual COD (claimed)	Delay
Asset-I	4.3.2017	1.5.2017	58 days
Asset-II		1.10.2017	211 days
Asset-III		30.6.2018	483 days

27. The Petitioner has submitted the following reasons for the time over-run:-

Asset-I

28. The movement of material at site got restricted and adversely affected due to agitation by villagers during December-2016 to January-2017 in Petitioner's Agra sub-station. During protest, villagers locked the main gate of Agra substation and were demanding free power supply. However, the matter was settled with the help of administration in January 2017. Apart from above, there were intermittent obstruction by the villagers on various occasions since October 2016 which hampered site activities and man & material movement very badly resulting into overall delay in completion. Accordingly, after settlement of the issue with the villagers, the transformer could reach at site on 25.3.2017 and after requisite tests put under commercial operation with effect from 1.5.2017. The chronology of events is as follows:-

S.N.	Particular	Date	Remarks
1	Agra substation gate broken and closed by villagers	27.12.2016, 28.12.2016	Paper-cutting dated. 27.12.2016 & 28.12.2016
2	Letter to Chief secretary UP GOVT, Lucknow by ED, NR-III	28.12.2016	For Gherao of 765/400 kV Agra Sub-station.
3	Protest against Petitioner for free power continues	29.12.2016-3.1.2017	Paper-cutting dated 29.12.2016 & 3.1.2017
4	Letter to Senior superintendent of police, Lucknow	12.1. 2017	Letter dated.12.1.2017
5	Election Boycott for free electricity	17.1.2017	Paper-cutting dated 17.1.2016

Asset-II

29. Delay is mainly due to delay in supply of transformer due to problem in OLTC and magnetizing current observed during testing. After final rectification and testing, the transformer finally reached at site on 26.8.2017.

Asset-III

30. The delay is on account of delay in supply of transformer.

31. The Respondent, BRPL in affidavit dated 31.1.2018 has submitted that the Petitioner being the CTU was aware of the technicalities while arriving at the time schedule for implementation. The Petitioner should have accordingly framed the time schedule and planned the execution of the instant asset, which the Petitioner has failed to do. As the time over-run is due to faulty planning and management of the Petitioner, time over-run may not be condoned. In response, the Petitioner vide affidavit dated 28.2.2018 has submitted that delay reasons have been submitted in detail in the main petition.

32. The Commission vide RoP dated 12.9.2019 directed the Petitioner to submit details of reasons for time over-run and correspondence letters exchanged, if any and chronology of the time over-run along with documentary evidence in the prescribed format.

33. In response, the Petitioner vide affidavit dated 1.10.2019 has submitted the details as under:-

Asset-I:

Activity	Original Schedule (As per planning)		Actual Achieved (As per actual)		Time overrun	Reason(s) for Delay
	Start date	Completion date	Start date	Completion date	Months	
Land acquisition	NA	NA	NA	NA	NA	Land not acquired in the instant project
LOA	4.5.2015	4.5.2015	31.3.2015	31.3.2015	NIL	--
Supplies of structure, equipment etc.	1.2.2016	25.11.2016	25.3.2017	12.4.2017	4 months	ROW issue /Law & order issue
Civil works and erection	2.7.2015	30.1.2017	15.1.2017	21.4.2017	3 months	--
Stringing	NA	NA	NA	NA	NA	--
Row Problem	--	--	Dec'2016	Jan'2017	2 months	Details of ROW mentioned in main petition.
Testing and commissioning	31.1.2017	3.3.2017	21.4.2017	30.4.2017	1 month 26 days	ROW issue /Law & order issue
Any other activities for delay , if any	NA	NA	NA	NA	NA	--

Asset-II:

Activity	Original Schedule (As per planning)		Actual Achieved (As per actual)		Time overrun	Reason(s) for Delay
	Start date	Completion date	Start date	Completion date	Months	
Land acquisition	NA	NA	NA	NA	NA	Land not acquired in the instant project
LOA	4.5.2015	4.5.2015	31.3.2015	31.3.2015	NIL	--
Supplies of structure, equipment etc.	1.2.2016	25.11.2016	26.8.2017	5.9.2017	9 months 9 days	Supply delay. Delay due to problem in OLTC and magnetizing current observed during testing
Civil works and erection	2.7.2015	30.1.2017	30.3.2017	14.9.2017	3 months	--
Stringing	NA	NA	NA	NA	NA	--
Row Problem	--	--	NIL	NIL		--
Testing and commissioning	31.1.2017	3.3.2017	16.9.2017	29.9.2017	6 month 26 days	--

Any other activities for delay , if any	NA	NA	NA	NA	NA	--
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Asset-III:

Activity	Original Schedule (As per planning)		Actual Achieved (As per actual)		Time overrun	Reason(s) for Delay
	Start date	Completion date	Start date	Completion date	Months	
Land acquisition	NA	NA	NA	NA	NA	Land not acquired in the instant project
LOA	4.5.2015	4.5.2015	31.3.2015	31.3.2015	NIL	--
Supplies of structure, equipment etc.	1.2.2016	25.11.2016	20.5.2017	3.6.2017	--	Supply delay
Civil works and erection	2.7.2015	30.1.2017	6.3.2017	10.6.2018		--
Stringing	NA	NA	NA	NA	NA	--
Row Problem	--	--	NIL	NIL		--
Testing and commissioning	31.1.2017	3.3.2017	11.6.2018	30.6.2018	6 month 26 days	--
Any other activities for delay , if any	NA	NA	NA	NA	NA	--

34. We have considered the submissions made by the Petitioner and Respondents and perused the documents on record. There is a time over-run of 58 days, 211 days and 483 days in case of Asset-I,II and III, respectively. The Petitioner has attributed the time over-run due to delay of ROW /Law & Order problems and due to delay in supply. The asset-wise time over-run is discussed hereunder:-

Asset-I

35. Asset-I was put into commercial operation on 1.5.2017 with time over-run of 58 days. It is seen from the chronology submitted by the Petitioner that LOA (Letter of award) was placed timely on 31.3.2015 as per schedule. Further, from the

submissions and documents placed on records by the Petitioner, it is seen that the ROW issues were encountered from 27.12.2016 to 25.3.2017 for about 88 days which affected the Commissioning of the instant asset. The time over-run of about 88 days on account of ROW problems is beyond the control of the Petitioner and has cascading effect on the Commissioning of Asset-I. However, the Petitioner compressed the execution time and commissioned the instant asset with overall delay of 58 days. Therefore, the overall time over-run of 58 days (i.e. from SCOD 4.3.2017 to COD i.e. 1.5.2017), in commissioning of Asset-I is condoned.

Asset-II & Asset-III

36. Asset-II and Asset-III were put into commercial operation on 1.10.2017 and 30.6.2018 with time over-run of 211 days and 483 days, respectively. It is seen from the chronology submitted by the Petitioner that LOA (Letter of award) was placed timely on 31.3.2015 as per schedule. The Petitioner has submitted that delay is due to delay in supplies. Thus, it is evident that there was delay on part of the supplier and contractor. The issue of time over-run is dealt by APTEL in judgement dated 27.4.2011 in Appeal No. 72 of 2010. It was held that if the time over-run is due to the contractor or supplier, the Petitioner is liable for the time over-run and the consequent cost. The relevant portion of the judgement is extracted hereunder:-

“7.4. The delay in execution of a generating project could occur due to following reasons:

- (i) due to factors entirely attributable to the generating company, e.g., imprudence in selecting the contractors/suppliers and in executing contractual agreements including terms and conditions of the contracts, delay in award of contracts, delay in providing inputs like making land available to the contractors, delay in payments to contractors/suppliers as per the terms of contract, mismanagement of finances, slackness in*

project management like improper co-ordination between the various contractors, etc.

- (ii) *due to factors beyond the control of the generating company e.g. delay caused due to force majeure like natural calamity or any other reasons which clearly establish, beyond any doubt, that there has been no imprudence on the part of the generating company in executing the project.*
- (iii) *Situation not covered by (i) & (ii) above.”*

In the first case the entire cost due to time over run has to be borne by the generating company. However, the Liquidated Damages (LDs) and insurance proceeds on account of delay, if any, received by the generating company could be retained by the generating company. In the second case the generating company could be given benefit of the additional cost incurred due to time over-run. However, the consumers should get full benefit of the LDs recovered from the contractors/suppliers of the generating company and the insurance proceeds, if any, to reduce the capital cost. In the third case the additional cost due to time overrun including the LDs and insurance proceeds could be shared between the generating company and the consumer. It would also be prudent to consider the delay with respect to some benchmarks rather than depending on the provisions of the contract between the generating company and its contractors/suppliers. If the time schedule is taken as per the terms of the contract, this may result in imprudent time schedule not in accordance with good industry practices.

7.5. In our opinion, the above principles will be in consonance with the provisions of Section 61(d) of the Act, safeguarding the consumers’ interest and at the same time, ensuring recovery of cost of electricity in a reasonable manner.”

37. Moreover, we are of the view that, the reasons submitted by the petitioner for time over-run are generic in nature and are controllable as specified in Regulation 12(1) of the 2014 Tariff Regulations. Regulation 12(1) of the 2014 Tariff Regulations provides as under:

“12. Xxxxxx

- (1) The “controllable factors” shall include but shall not be limited to the following:*
 - (a) Variations in capital expenditure on account of time and/or cost over-runs on account of land acquisition issues;*
 - (b) Efficiency in the implementation of the project not involving approved change in scope of such project, change in statutory levies or force majeure events; and*

(c) *Delay in execution of the project on account of contractor, supplier or agency of the generating company or transmission licensee.”*

38. In view of the above discussion, we are of the view that the time over-run in the instant case is attributable to the Petitioner, its contractor or supplier, which are controllable in nature. Hence, the time over-run of Asset-II from SCOD i.e. 4.3.2017 to COD i.e. 1.10.2017 (211 days) and that of Asset-III from SCOD i.e. 4.3.2017 to COD i.e. 30.6.2018 (483 days) does not call for condonation. Therefore, the entire time over-run in case of Asset - II and Asset – III is not condoned. However, the liquidated damages (LDs) on account of time over-run recovered by the Petitioner from its contractor or supplier may be retained by the Petitioner.

39. In view of the above, the time over-run condoned/ not condoned and COD of the instant asset is as follows:-

Asset	COD	Time over-run	Time over-run Condoned	Time over-run not Condoned
Asset-I	1.5.2017	58 days	58 days	Nil
Asset-II	1.10.2017	211 days	Nil	211 days
Asset-III	30.6.2018	483 days	Nil	483 days

Interest During Construction (IDC)

40. The Petitioner has claimed Interest During Construction (IDC) for the instant assets and has submitted the Auditor Certificate in support of the same. The year-wise details of the IDC discharged as submitted by the petitioner is summarized as under:-

Asset	IDC as per Auditor Certificate	IDC discharged upto COD	IDC undischarged upto COD	IDC discharged year-wise	
				2017-18	2018-19

Asset	IDC as per Auditor Certificate	IDC discharged upto COD	IDC undischarged upto COD	IDC discharged year-wise	
				2017-18	2018-19
Asset-I	19.85	16.83	3.02	3.02	0.00
Asset-II	32.43	27.62	4.81	0.00	4.81
Asset-III	90.33	75.46	14.87	0.00	14.87

41. The allowable IDC as on COD has been worked out considering the information submitted by the Petitioner. IDC, up to the allowable date, has been worked out based on the loans deployed for the assets as per Form-9C of the original petition. It is submitted that petitioner has not made any default in the payment of interest. Therefore, for the purpose of determination of allowable IDC, the interest rate as mentioned in Form 9C against these loans has been considered.

42. The statement showing IDC consist of the name of the loan, drawl date, loan amount, interest rate and Interest claimed. It is observed that the petitioner has not specified the interest rate for SBI loans and has instead mentioned it as floating rate. Therefore for the purpose of calculating the IDC, the interest rate as mentioned in Form 9C against these loans have been considered. Further the loan amount as mentioned in IDC statements and as mentioned in Form 9C are not matching. Hence, for the purpose of working out the IDC, the loan amount as mentioned in Form 9C has been considered. The petitioner is directed to submit the detailed IDC statement by rectifying the above mentioned deviation, at the time of true up. Also, the undischarged IDC as on COD has been deducted from COD cost and allowed as additional capitalization during 2017-18 and 2018-19, in which it is discharged.

43. Accordingly, the IDC is being worked out for the purpose of tariff determination, subject to revision at the time of true up, as below:

(₹ in lakh)

Asset	IDC claimed as per Auditor certificate	IDC Disallowed due to Excess claim & Time overrun not allowed, if any.	IDC Allowed on accrual basis	IDC Allowed on cash basis as on COD	Un-discharged IDC liability as on COD	IDC liability allowable as ACE during 2017-18	IDC liability allowable as ACE during 2018-19
	1	2	3=(1-2)	4	5=(3-4)	6	7
Asset-I	19.85	0.78	19.07	15.12	3.95	3.02	0.93
Asset-II	32.43	7.91	24.52	13.85	10.67	10.67	0.00
Asset-III	90.33	51.76	38.57	23.30	15.28	0.00	15.28

Incidental Expenditure During Construction (IEDC)

44. The Petitioner has claimed IEDC of ₹10.74 lakh, ₹1.03 lakh and (-)₹26.63 lakh for instant Asset-I, II & III, respectively. The Petitioner has claimed IEDC as on COD, duly certified by Auditor, which is within the percentage on hard cost as indicated in the abstract cost estimate. In the instant petition, the abstract cost estimates indicate IEDC as less than 10.75% of hard cost. Hence, in line with the ceiling limits, the IEDC claimed by the Petitioner for the asset is allowed. This line of action was approved by the Commission vide order dated 20.05.2015 in petition no. 109/TT/2013. Hence, as far as limitation is concerned adjustment of IEDC for the assets is not required. However, pro-rata of IEDC of ₹ 0.23 lakh in respect of 212 days delay not condoned for Asset-II is disallowed to be capitalized. The remaining IEDC of ₹ 0.80 lakh has been considered for tariff determination. Petitioner has claimed negative IEDC for Asset-III and hence, pro-rata IEDC considered to be disallowed for 484 days time overrun not condoned in case of Asset-III is NIL. Also, the Petitioner has submitted that the entire amount of IEDC has been discharged upto COD. The IEDC allowed for the instant asset will be reconsidered in the light

of the directions of Appellate Tribunal for Electricity (APTEL) in judgment dated 2.12.2019 in Appeal Nos. 95 of 2018 and 140 of 2018 against Commission's orders dated 29.7.2016 and 5.10.2017 in Petition Nos. 46/TT/2014 and 2/RP/2017 respectively, at the time of truing up.

45. Accordingly, the amount of IEDC claimed, disallowed on account of time overrun not condoned, and considered accordingly, in the tariff calculations, are as below:-

(₹ in lakh)			
Asset	IEDC claimed as per Auditor certificates	IEDC Disallowed due to Time overrun not allowed	IEDC Allowed on cash basis as on COD
Asset-I	10.74	0.00	10.74
Asset-II	1.03	0.23	0.80
Asset-III	(26.63)	0.00	(26.63)

Initial Spares

46. This has been dealt in line with Regulation 13 of the 2014 Tariff Regulations. The Petitioner has claimed initial spares of ₹112.09 lakh, ₹112.09 lakh and ₹61.58 lakh for the instant Asset-I, Asset-II and Asset-III, respectively corresponding to Sub-Station (brownfield) and submitted Auditor Certificate in support of the same. The Initial Spares claimed by Petitioner in respect of instant asset corresponding to sub-station (GIS) are within the ceiling of 6% as prescribed by the Commission for Asset-III, however, the same is beyond the ceiling in respect of Asset-I and II. The Petitioner has submitted the details of year-wise discharge of initial spare vide affidavit dated 31.5.2018 for Asset-I & II and vide affidavit dated 21.8.2018 for Asset-III. The Petitioner has submitted that initial spares has been discharged year wise and are included in the expenditure, estimated expenditure as indicated in the

Auditor's certificates. Hence, further adjustment of initial spare in respect of discharge of liability is not required.

47. 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 cut off date, subject to true-up are as under:-

(₹ in lakh)

Asset	Plant and Machinery Cost excluding IDC, IEDC and Land & Civil Works	Initial spares claimed	Ceiling limit as per Regulation	Initial spares worked out	Initial spares allowed as on COD	Initial spares dis-allowed on account of excess claim
Asset-I	1458.95	112.09	6.00%	85.97	85.97	26.12
Asset-II	1411.03	112.09	6.00%	82.91	82.91	29.18
Asset-III	1459.56	61.58	6.00%	85.17	61.58	0.00

Capital cost as on COD

48. 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 claimed as on COD as per Auditor Certificate	IDC Disallowed due to Excess claim & Time Overrun not allowed, if any.	Un-discharged IDC liability worked out as on COD	Disallowed IEDC (Excess claim/ time overrun)	Disallowed Initial spares	Capital Cost as on COD considered for tariff calculation
	1	2	3	4	5	6=(1-2-3-4-5)
Asset-I	239.70	0.78	3.95	0.00	26.12	208.85
Asset-II	242.57	7.91	10.67	0.23	29.18	194.58
Asset-III	1084.84	51.76	15.28	0.00	0.00	1017.81

Additional Capital Expenditure (ACE)

49. As per Clause (13) of Regulation 3 of the 2014 Tariff Regulations, the cut-off date for instant Asset-I & II is 31.3.2020 and that for Asset-III is 31.3.2021. The

Petitioner has submitted Auditor Certificates in support of the additional capitalization during 2017-18, 2018-19 and 2019-20 in respect of instant assets. In addition, the Petitioner has also claimed the discharge of IDC liability as ACE. However, the additional capitalization for period 2019-20 of ₹112.42 lakh in respect of Asset-III is not being considered as the tariff period is ending on 31.3.2019 and same will be examined in tariff period 2019-24 in terms of prevailing regulation at that time. The Petitioner vide form 7 has claimed both these cost as ACE under Regulation 14(1)(i) and 14(1)(ii), which has been summarized upto 31.3.2019 as under:-

(₹ in lakh)

Asset	Additional Capital expenditure claimed			Total ACE upto 31.3.2019
	2017-18	2018-19	2019-20	
Asset-I	1163.36	86.48	0.00	1249.84
Asset-II	823.16	378.76	0.00	1201.92
Asset-III	0.00	262.31	112.42	262.31

50. The Petitioner has claimed additional capital expenditure towards Balance and Retention payments. The admissible un-discharged IDC liability as on COD has been allowed as ACE during the year of its discharge. The allowed Additional Capital expenditure is summarized below which is subject to true up:-

(₹ in lakh)

Asset-I			
Particulars	Regulation	2017-18	2018-19
ACE to the extent of Balance & Retention Payment & ACE to the extent of unexecuted work	14 (1)(i) & 14 (1)(ii)	1163.36	86.48
IDC Discharged	14 (1)(i)	3.02	0.93
Total Add-Cap allowed for tariff		1166.38	87.41
Asset-II			
Particulars	Regulation	2017-18	2018-19
ACE to the extent of Balance & Retention Payment & ACE to the extent of unexecuted work	14 (1)(i) & 14 (1)(ii)	823.16	378.76
IDC Discharged	14 (1)(i)	10.67	0.00

Particulars	Regulation	2017-18	2018-19
Total Add-Cap allowed for tariff		833.79	378.80
Asset-III			
Particulars	Regulation	2017-18	2018-19
ACE to the extent of Balance & Retention Payment & ACE to the extent of unexecuted work	14 (1)(i) & 14 (1)(ii)	0.00	262.31
IDC Discharged	14 (1)(i)	0.00	15.28
Total Add-Cap allowed for tariff		0.00	277.59

De-capitalisation of Spare transformer

51. The Respondent, BRPL in affidavit dated 31.1.2018 has made submissions that all the four ICTs covered in this petition are spare ICTs and the same are to be kept for charging condition which are located at Agra, Fatehpur, Jhatikara and Bhiwani sub-stations. The Petitioner has not stated the rationale as to why these ICTs are kept in ready for charging condition when they are not in use after the commissioning. The Petitioner has also not explained as to how the tariff of these assets can be claimed especially when these assets are not in use in terms of Regulation 9 (6) (a) of the Tariff Regulations, 2014 which clearly exclude the capital cost of the new project when the assets although forming the part of the project but not in use. The Petitioner is required to furnish clearly provisions of Tariff Regulations, 2014 under which it is claiming the tariff of these assets.

52. In response the Petitioner filed its rejoinder dated 28.2.2018 and made submissions that the approval of any project by the Board of the Petitioner is done only after proper planning and discussion/ratification of the same in SCM and RPC meetings. If spare ICTs are not maintained, in case of failure of any existing ICT, the transformation capacity of that area gets restricted thereby affecting the end consumers. Repair/replacement of failed ICT takes considerable time and failure of

ICT may lead to overloading of parallel transformer and also grid instability. For smooth operation and stability of the grid, spare ICT is essential. Further, the Commission have already approved tariff in similar cases of spare ICT in petition no. 39/TT/2013 (Spare ICT at Hissar and Lucknow), 113/TT/2012 (Spare ICT at Ludhiana and Mandola) etc. In the present project, procurement of spare ICT was discussed and agreed in 31st Standing Committee meeting held on 2.1.2013 and in 31st NRPC meeting held on 24.7.2014. The Petitioner has submitted copy of Minutes of meetings (MOMs) of 31st Standing Committee meeting held on 2.1.2013 and in 31st NRPC meeting held on 24.7.2014.

53. The Commission vide ROP dated 12.9.2019 directed the Petitioner to clarify, whether there is any asset being replaced/de-capitalized/not put to use due to execution of the instant assets and to provide details thereof. In response, the Petitioner vide affidavit dated 1.10.2019 has submitted that subject spare transformers are new spare transformers and no asset was replaced/de-capitalized.

54. We have considered the submissions of Petitioner and Respondents. The instant assets are new spare transformers and do not involve any replacement. Further, the assets were installed after deliberation and approval in SCM and RPC. Therefore, we allow the capitalization without effecting any de-capitalisation in this regard.

Capital cost for the tariff period 2014-19

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

(₹ in lakh)

Asset	Capital Cost allowed as on COD	Add Cap allowed from COD to 31.03.2018	Add Cap allowed in FY 2018-19	Total Estimated Completion Cost up to 31.3.2019
Asset-I	208.85	1166.38	87.41	1462.64
Asset-II	194.58	833.79	378.80	1407.17
Asset-III	1017.81	0.00	277.59	1295.39

Debt-Equity Ratio

56. Debt-Equity Ratio is considered as per Regulation 19 of the 2014 tariff Regulations. The financial package up to COD as submitted in Form 6 has been considered to determine the debt-equity Ratio. The capital cost allowed as on the date of commercial operation has been considered in the debt-equity ratio of 70:30 and additional capitalization allowed have been considered in the debt-equity ratio of 70:30. The debt-equity ratio as on date of commercial operation and as on 31.3.2019 considered on normative basis are as under:-

(₹ in lakh)

Asset-I	As on COD		As on 31.03.2019	
Debt	146.20	70%	1023.85	70%
Equity	62.65	30%	438.79	30%
Total	208.85	100%	1462.64	100%

Asset-II	As on COD		As on 31.03.2019	
Debt	136.21	70%	985.03	70%
Equity	58.37	30%	422.14	30%
Total	194.58	100%	1407.17	100%

Asset-III	As on COD		As on 31.03.2019	
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Asset-III	As on COD		As on 31.03.2019	
Debt	712.46	70%	906.78	70%
Equity	305.34	30%	388.62	30%
Total	1017.81	100%	1295.39	100%

Return on Equity (ROE)

57. 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.

58. We have considered the submissions made by the Petitioner. 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.

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

Particulars	(₹ in lakh)				
	Asset-I		Asset-II		Asset-III
	2017-18 (Pro-rata)	2018-19	2017-18 (Pro-rata)	2018-19	2018-19 (Pro-rata)
Opening Equity	62.65	412.57	58.37	308.50	305.34
Addition due to Additional Capitalization	349.91	26.22	250.14	113.64	83.28
Closing Equity	412.57	438.79	308.50	422.14	388.62
Average Equity	237.61	425.68	183.44	365.32	346.98

Particulars	Asset-I		Asset-II		Asset-III
	2017-18 (Pro-rata)	2018-19	2017-18 (Pro-rata)	2018-19	2018-19 (Pro-rata)
Return on Equity (Base Rate)	15.50%	15.50%	15.50%	15.50%	15.50%
MAT rate for the Financial year 2013-14	20.961%	20.961%	20.961%	20.961%	20.961%
Rate of Return on Equity (Pre-tax)	19.610%	19.610%	19.610%	19.610%	19.610%
Return on Equity (Pre-tax)	42.77	83.48	17.94	71.64	51.27

Interest on Loan (IOL)

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

- a) 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.
- b) The depreciation of every year has been considered as Normative repayment of loan of concerned year;
- c) 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.

61. 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.

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

Particulars	(₹ in lakh)				
	Asset-I		Asset-II		Asset-III
	2017-18 (Pro-rata)	2018-19	2017-18 (Pro-rata)	2018-19	2018-19 (Pro-rata)
Gross Normative Loan	146.20	924.28	136.21	703.77	712.46
Cumulative Repayment upto previous Year	0.00	38.38	0.00	16.10	0.00
Net Loan-Opening	146.20	885.90	136.21	687.67	712.46
Addition due to Additional Capitalization	816.47	61.19	583.65	265.16	194.31
Repayment during the year	38.38	74.92	16.10	64.30	46.01
Net Loan-Closing	924.28	872.17	703.77	888.53	860.77
Average Loan	535.24	879.03	419.99	788.10	786.62
Weighted Average Rate of Interest on Loan	7.6457%	7.4426%	8.0128%	7.9121%	7.8417%
Interest on Loan	37.56	65.42	16.78	62.35	46.47

Depreciation

63. Depreciation has been dealt with in line of Regulation 27 of 2014 Tariff Regulations. The instant assets were put under commercial operation during 2017-18 & 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-I		Asset-II		Asset-III
	2017-18 (Pro-rata)	2018-19	2017-18 (Pro-rata)	2018-19	2018-19 (Pro-rata)
Opening Gross Block	208.85	1375.23	194.58	1028.37	1017.81
Additional Capital expenditure	1166.38	87.41	833.79	378.80	277.59
Closing Gross Block	1375.23	1462.64	1028.37	1407.17	1295.39
Average Gross Block	792.04	1418.94	611.47	1217.77	1156.60
Rate of Depreciation	5.2800%	5.2800%	5.2800%	5.2800%	5.2800%
Depreciable Value	712.84	1277.04	550.33	1095.99	1040.94
Remaining Depreciable Value	712.84	1238.66	550.33	1079.89	1040.94
Depreciation	38.38	74.92	16.10	64.30	46.01

Operation and Maintenance Expenses (O&M Expenses)

64. The Petitioner has not claimed the O&M expenses for assets covered in the instant petition. Accordingly, the O&M Expenses have been considered as 'nil' for the purpose of tariff in the instant petition

Interest on Working Capital (IWC)

65. 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. Since the O&M Expenditure has not been allowed, the Maintenance spares is also NIL.

b) O & M expenses:

Operation and maintenance expenses have been provided for one month of the O&M expenses. Since the O&M Expenditure has not been allowed, the O&M expenses for one month is also NIL.

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 1.4.2017 plus 350 Bps i.e. 12.60% has been considered as the rate of interest on working capital for Asset-I and Asset-II. However, SBI Base Rate as on 1.4.2018 plus 350 Bps i.e. 12.20% has been considered as the rate of interest on working capital for Asset-III.

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

(₹ in lakh)

Particulars	Asset-I		Asset-II		Asset-III
	2017-18 (Pro-rata)	2018-19	2017-18 (Pro-rata)	2018-19	2018-19 (Pro-rata)
Maintenance Spares	0.00	0.00	0.00	0.00	0.00
O&M expenses	0.00	0.00	0.00	0.00	0.00
Receivables	22.02	38.10	17.35	33.76	32.46
Total	22.02	38.10	17.35	33.76	32.46
Rate of Interest	12.60%	12.60%	12.60%	12.60%	12.20%
Interest on Working Capital	2.55	4.80	1.09	4.25	2.98

Annual Transmission charges

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

(₹ in lakh)

Particulars	Asset-I		Asset-II		Asset-III
	2017-18 (Pro-rata)	2018-19	2017-18 (Pro-rata)	2018-19	2018-19 (Pro-rata)
Depreciation	38.38	74.92	16.10	64.30	46.01
Interest on Loan	37.56	65.42	16.78	62.35	46.47
Return on Equity	42.77	83.48	17.94	71.64	51.27
Interest on Working Capital	2.55	4.80	1.09	4.25	2.98
O&M Expenses	0.00	0.00	0.00	0.00	0.00
Total	121.25	228.62	51.91	202.55	146.73

Filing fee and the publication expenses

68. The Petitioner has sought reimbursement of fee paid by it for filing the petition and publication expenses, in terms of Regulation 52 of the 2014 Tariff Regulations. The Petitioner shall be entitled for reimbursement of the filing fees and publication expenses in connection with the present petition, directly from the beneficiaries on pro-rata basis in accordance with clause (1) of Regulation 52 of the 2014 Tariff Regulations.

License fee and RLDC Fees and Charges

69. The Petitioner has prayed to allow the Petitioner to bill and recover License fee and RLDC fees and charges, separately from the respondents. We are of the view that 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

70. 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)

71. The Respondent, BRPL in affidavit dated 31.1.2018 has submitted that, the Petitioner in this case 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 Tariff Regulations, 2014. The discussions at the NRPC meetings cited by the Petitioner cannot be treated as the 'Transmission service Agreement' under Regulation 3(63) of the Tariff Regulations, 2014 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 Tariff Regulations, 2014. In response, Petitioner vide affidavit dated 27.8.2018 has 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. 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;”

73. 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.”

74. 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 the 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 the 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.”

75. Accordingly, 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 by including the new ISTS in Schedule-II of the TSA.

Sharing of Transmission Charges

76. 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 and as provided in Regulation 43 of the 2014 Tariff Regulations.

77. This order disposes of Petition No.247/TT/2017.

Sd/-

(I. S. Jha)
Member

Sd/-

(Dr. M. K. Iyer)
Member

Sd/-

(P. K. Pujari)
Chairperson