

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 334/TT/2018

Coram:

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

Date of Order : 05.02.2020

In the matter of:

Approval of transmission tariff of the existing and new 400 kV inter-State transmission lines of the Transmission and Distribution Network of the Damodar Valley Corporation for the 2017-19 period.

And in the matter of:

Damodar Valley Corporation
DVC Towers, VIP Road,
Kolkata -700 054.

.....Petitioner

Vs

1. West Bengal State Electricity Distribution Company Limited
Vidyut Bhawan, Block `DJ`
Sector-11, Salt Lake City,
Kolkata-700 091

2. Jharkhand Bijlee Vitran Nigam Limited,
Engineers' Building, Dhurwa, Ranchi-834 004

.....Respondents

For Petitioner : Ms. Anushree Bardhan, Advocate, DVC
Ms. Tanya Sareen, Advocate, DVC
Shri Samit Mandal, DVC
Shri Soumya Prasad Chowdhury, DVC

For Respondents : None



ORDER

The instant petition has been filed by Damodar Valley Corporation (DVC) pursuant to the Commission's order dated 10.10.2017 in Petition No.386/TT/2014 seeking approval of transmission tariff in respect of the existing assets, namely, Asset-I: 400 kV LILO DSTPS transmission line; Asset-II: 400 kV LILO RTPS transmission line; Asset-III:400 kV D/C DSTPS-RTPS transmission line for the 2017-19 period and for the new asset, Asset-IV: 400 kV D/C Raghunathpur-Ranchi Quad Moose transmission line from its on COD on 30.8.2017 till 31.3.2019, of the Petitioner's Transmission and Distribution Network (hereinafter collectively referred to as "transmission assets") under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as "2014 Tariff Regulations").

2. DVC has made the following prayers:-

- “(a) Admit the present petition and determine the tariff in respect of the non-ISTS Line(s) carrying ISTS power of DVC for the period 2017-18 and 2018-19;*
- (b) Allow DVC to recover shortfall or refund the excess Annual Fixed Charges, on account of Return on Equity due to change inapplicable Minimum Alternate/Corporate Income Tax rate as per Income Tax Act. 1961 (as amended from time to time) of the respective financial year directly without the need to make any further application before the commission as provided under clause 25 of the Tariff Regulation 2014.*
- (c) The Tariff for Transmission of Electricity (Annual Fixed Charges) as per para 14 (J) of petition, in accordance with Regulation 43 Central Electricity Regulatory Commission (Terms and condition of tariff) Regulations, 2014.*



These charges shall be recovered on monthly basis and the billing collection and disbursement shall be governed by provisions of Central Electricity Regulatory Commission (sharing of interstate Transmission charges and Losses) Regulations, 2010.

- (d) In the circumstances mentioned above it with be just and proper that the transmission tariff for the assets covered under this petition be allowed to be recovered from beneficiaries by considering the tariff determined herein by this Hon'ble commission while determining the Poc charges or as deemed fit by Hon'ble Commission*
- (e) Pass such further order or orders as this Hon'ble commission may deem just and proper in the facts and circumstances of the case."*

Background

3. The Petitioner filed Petition No. 272/2010 for determination of tariff of Transmission & Distribution ("T&D") system of DVC network for the period from 1.4.2009 to 31.3.2014 and the Commission vide order dated 27.9.2013 determined the same for the 2009-14 period. Thereafter, the Petitioner filed Petition No. 547/TT/2014 for truing-up of the tariff (determined by order dated 27.9.2013 in Petition No. 270/TT/2012) of 2009-14 period of its T&D System. The Commission vide order dated 29.9.2017 in Petition No. 547/TT/2014 trued up the tariff of the 2009-14 period, wherein the Petitioner was directed to claim the tariff separately for the existing and new assets for the 2014-19 period and onwards. The relevant portion of the order dated 29.9.2017 is extracted hereunder:

"73. In the previous orders as stated above, the Commission had considered the new additions under additional capital expenditure pooled power to all consumers is supplied through its integrated and composite T&D network and specific consumer or a specific group of consumers cannot be identified with reference to any particular transmission segment, sub-station for sale of power to consumers located in two States namely the



State of West Bengal and the State of Jharkhand. Therefore, the current additional capitalization for 2009-14 is approved in line with previous orders.

74. However, it is observed that the new transmission lines and substation claimed in the Transmission A to N Stage will expand the capital base of the petitioner. The capitalization claimed by the petitioner in the instant petition is based on entire company wise expenditures incurred. Transmission A to N Stage includes new transmission systems and existing transmission systems. The 2009 Tariff Regulations provides the tariff determination for project or scheme or transmission system or element. In the instant case, the petitioner has claimed the transmission tariff for all the transmission system of the Company as a whole. The determination of tariff of the new transmission element and existing transmission element is to be examined differently. The new transmission element is to be examined for admissibility of commercial operation date, capital expenditure, debt:equity ratio for that individual element. Therefore, we are of the view that the capital cost additions due to new transmission system is to be treated separately.

75. Accordingly, the capital cost on account of the new transmission system under Transmission A to N Stage is to be treated as new capital cost and the existing transmission system is to be treated as additional capital expenditure within the meaning of the 2009 Tariff Regulations. Therefore, the admissibility of capital cost, of new transmission systems henceforth would be considered within Regulation 9 of the 2014 Tariff Regulations and allowed after prudence check. Further, the capital cost of existing transmission system would be considered as additional capitalization within the meaning of Regulation 14 of the 2014 Tariff Regulations.

76. In light of the above discussion, the petitioner, is therefore directed to file the application for the purpose of tariff determination separately for the new additions claimed in 2014-19 tariff period as under:

(a) The each transmission element or system shall be distinctly identified in the investment approval along with the details of long term transmission customer or beneficiaries who has requested for the creation of the transmissions system; b) The commissioning of each individual elements or group of elements shall be claimed separately along with trial operation certificate of RLDC and other requirements as per the 2014 Tariff Regulations; c) The capital cost shall be admitted for the new assets after prudence check in accordance with the provisions of the 2014 Tariff Regulations. The petitioner shall have to comply with requirements by providing details of latest Audited accounts, Balance sheet, IDC, allocation of loans, IEDC and Initial Spares procured for individual/group elements. The admissibility of time overrun, cost overrun, initial spares shall be examined for individual elements or group of elements along with relevant documentary evidence; d) The allocation of loan and infusion of equity in the different he segregation of additional capitalization of New works (Transmission A to N Stage) and existing works shall be claimed in accordance with the 2014 Tariff



Regulations; f) Once the capital cost, debt and equity is admitted for individual element or group of elements, the petitioner may combined the same with existing asset base and revised the tariff allowed by the Commission with reference to the commissioning of the assets. g) The tariff for the 2014-19 period shall be determined taking into consideration the submissions made by the petitioner. project shall be separately identified by the petitioner and the same will be examined by the Commission for individual project on case to case basis.”

4. Later, the Petitioner filed Petition No. 386/TT/2014 for determination of tariff in respect of its composite T&D System for the 2014-19 period in accordance with the 2014 Tariff Regulations. The Commission referring to the directions given in order dated 29.9.2017 in Petition No. 547/TT/2014, directed the Petitioner to file a separate petition for the existing and new transmission assets and disposed of the Petition No. 386/TT/2014 vide order dated 10.10.2017. The relevant portion of the order dated 10.10.2017 is as follows:-

“12. Regulation 14 of the 2014 Tariff Regulations provides for the additional capital expenditure in the existing transmission system. The capital cost of the new transmission element and system is to be examined separately with reference to the specific approval, commercial operation date, capital cost as on COD etc. During pendency of this petition, the Commission has issued order dated 29.9.2017 in petition 547/TT/2014 truing up the annual fixed charges from 1.4.2009 to 31.3.2014.

13....the Petitioner is directed to file a revised petition for determination of tariff for 2014-19 period separately for the new transmission elements (transmission lines and substations) for individual project clearly identifying separate capital cost, initial spares, loan allocation and debt:equity ratio etc.”

5. Pursuant to the directions of the Commission in order dated 10.10.2017 in Petition No.386/TT/2014, the Petitioner filed Petition No. 150/TT/2018 for determination of tariff for the 2014-19 period in respect of the existing T&D System as on 31.3.2014. The Petitioner claimed tariff for the instant Assets-I, II and III in Petition



No. 150/TT/2018 as a part of the existing T&D System for the 2014-19 tariff period. However, the Petitioner later sought removal of Assets-I, II and III from the capital base of the existing T&D System from 1.4.2017 as ERPC has declared these lines as non-ISTS lines carrying ISTS power. Accordingly, these lines were removed from the existing T&D System asset base w.e.f. 2017-18. However, these assets were part of the capital base of the existing T&D System of DVC upto 31.3.2017. The Asset-IV, which was put into commercial operation on 30.8.2017, was not part of the capital cost of the existing T&D System. Accordingly, the tariff for Assets-I, II and III from 1.4.2017 to 31.3.2019 and Asset-IV from 30.8.2017 to 31.3.2019 is determined in this order as per the 2014 Tariff Regulations.

6. The details of the combined transmission charges claimed by the Petitioner for the instant assets are as under:-

Particulars	(₹ in lakh)				
	2014-15 (pro-rata)	2015-16	2016-17	2017-18	2018-19
Depreciation	13878.68	14738.76	15496.17	13902.32	9553.54
Interest on Loan	1055.41	435.54	158.83	0.00	3.22
Return on Equity	11476.33	12131.77	12708.96	11473.23	11698.25
Interest on Working Capital	1762.75	1852.74	1846.24	1800.87	1698.61
O & M Expenses	20601.64	21823.04	23068.02	24060.20	24870.39
Total	48774.81	50981.85	53278.22	51236.62	47824.01

7. The combined interest on working capital claimed by the Petitioner for the instant assets are as under:-



(₹ in lakh)					
Particulars	2014-15 (pro-rata)	2015-16	2016-17	2017-18	2018-19
Maintenance Spares	3130.34	3319.06	3514.38	3654.31	3778.71
O & M expenses	1739.08	1843.92	1952.44	2030.17	2099.28
Receivables	8188.01	8561.00	8956.93	8608.17	8045.05
Total	13057.43	13723.98	14423.75	14292.65	13923.05
Interest Rate (%)	13.50%	13.50%	12.80%	12.60%	12.20%
Interest	1762.75	1852.74	1846.24	1800.87	1698.61

8. 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. MPPMCL vide affidavit dated 3.12.2018 has filed its reply to the petition. The issues raised by MPPMCL are considered in the relevant paragraphs of this order.

9. We have considered the submissions made by the Petitioner and MPPMCL. We proceed to determine the transmission charges for the instant assets in the succeeding paragraphs.

10. Based on the discussion in the 34th TCC meeting of ERPC, load flow study was conducted by ERLDC to assess the quantum of ISTS power flow in the 400 kV transmission lines constructed and owned by DVC. On the basis of the study, ERPC vide letter dated 24.8.2017 certified Assets-I, II, III and IV as “Non-ISTS lines carrying more than 50% ISTS Power” in the 35th ERPC/TCC meeting and directed the Petitioner to file a separate petition for determination of tariff in respect of Assets-I, II, III and IV. Accordingly, the Petitioner has filed the instant petition under the 2014 Tariff Regulations.



Date of commercial operation (COD)

11. The Petitioner has submitted that Assets-I, II and III achieved COD on 1.2.2011, 1.7.2012 and 1.8.2013 respectively and claimed the COD of Asset-IV as 30.8.2017. Assets-I, II and III are existing transmission lines and are part of existing T&D System of the Petitioner and tariff upto 31.3.2017 has already been granted and hence the COD of Assets-I, II and III is considered as 1.2.2011, 1.7.2012 and 1.8.2013 respectively. The Asset-4 is a new asset and the Petitioner has claimed COD of the Asset-IV as 30.8.2017. In support, the Petitioner has submitted CEA energisation certificate dated 21.8.2017, SLDC charging certificate dated 31.8.2017, self-declaration COD letter dated 31.10.2017 and CMD certificate as required under Grid Code.

12. We have considered the documents submissions by the Petitioner in support of COD. As per the SLDC Certificate, it is observed that the trial operation of Asset-IV was successfully completed on 28.8.2017 and 29.8.2017. Accordingly, the COD of the Asset-IV is approved as 30.8.2017.

Capital cost

13. Regulation 9(1) of the 2014 Tariff Regulations provides 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.”



Opening capital cost allowed as on 1.4.2017 for Assets-I, II and III

14. In line with the Commission's order dated 9.8.2019 in Petition No. 150/TT/2018 and based on the Auditor's certificate, submitted vide affidavit dated 10.5.2019, the following opening capital cost as on 1.4.2017 is considered as provided in Regulation 9(1) of the 2014 Tariff Regulations for Assets-I, II and III:

(₹ in lakh)	
Assets	Opening Capital Cost
Asset-I	189.05
Asset-II	283.73
Asset-III	23519.34

Additional Capital Expenditure for Assets-I, II and III

15. 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.”



16. 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”.

17. Accordingly, the cut-off date in the case of Assets-I, II and III is 31.3.2014, 31.3.2015 and 31.3.2016 respectively.

18. The Petitioner has claimed additional capital expenditure during 2017-18 for Assets-I and II towards balance payments under Regulation 14(1) of the 2014 Tariff Regulations. The Petitioner has claimed the following additional capital expenditure for the instant assets:

(₹ in lakh)

Assets	Proposed Add-Cap		Remarks
	2017-18	2018-19	
Asset-I	784.13	0.00	Adjustment Entry
Asset-II	1881.69	0.00	Adjustment Entry
Asset-III	(-) 8622.69	0.00	Adjustment Entry

19. MPPMCL has submitted that the actual capital expenditure against individual line is now being submitted from 2017-18 onwards after necessary adjustment entry amongst individual line(s). The claim of the Petitioner is not supported by Auditor certificate and the same should be allowed after prudence check.

20. We have considered the submissions of the Petitioner and MPPMCL. The



additional capital expenditure claimed by the Petitioner upto 31.3.2017 has already been considered/ allowed in order dated 9.8.2019 in Petition No. 150/TT/2018. As regards the additional capital expenditure claimed by the Petitioner for 2017-18 and 2018-19, the Petitioner has submitted that while booking against individual element of Package-A and B, some expenditure was inadvertently booked. However, while submitting this petition, line-wise actual expenditure has been clearly worked out and necessary adjustment entry has been made. The Petitioner has submitted that the actual capital expenditure against individual lines is submitted from 2017-18 onwards after necessary adjustment entry amongst individual line(s) while overall booking against the Package(s) remaining unchanged. The adjustment entry claimed by the Petitioner for period 2017-18 and 2018-19 is not supported by Auditor certificate. Further, the Petitioner has not submitted any sanction/ work order for the works. Therefore, we are not inclined to allow any Additional Capital Expenditure or Decapitalisation for the said assets at this stage. The Petitioner is directed to submit the same along with the justification at the time of truing up for consideration.

21. The Petitioner has not claimed any initial spares for the existing Assets-I, II and III.

Capital cost allowed as on 31.3.2019 for Assets I, II and III

22. In view of the above, the following capital cost has been considered for Assets-I, II and III for the purpose of determination of tariff for 2014-19 tariff block:-



(₹ in lakh)			
Assets	Particulars	2017-18	2018-19
Asset-I	Opening Capital Cost	189.05	189.05
	Add: Additional Capital Expenditure	0.00	0.00
	Closing Capital Cost	189.05	189.05
Asset-II	Opening Capital Cost	283.73	283.73
	Add: Additional Capital Expenditure	0.00	0.00
	Closing Capital Cost	283.73	283.73
Asset-III	Opening Capital Cost	23519.34	23519.34
	Add: Additional Capital Expenditure	0.00	0.00
	Closing Capital Cost	23519.34	23519.34

23. The Petitioner has claimed capital cost of ₹165.87 lakh and ₹23637.18 lakh in Form 10A for Asset-II and Asset-III respectively. However, we have considered capital cost as per the Auditor's certificate as submitted vide affidavit dated 10.5.2019. Further, the Petitioner has claimed de-capitalization amounting to ₹8622.69 lakh as per Form-7. However, the same is not considered at this stage and the adjustment in the capital cost due to decapitalisation shall be done at the time of truing up.

Capital Cost as on COD for Asset IV

24. The Petitioner vide affidavit dated 10.5.2019 has submitted the capital cost incurred as on COD and additional capital expenditure incurred/ projected to be incurred from COD to 31.3.2019 and the same is as follows:-

(₹ in lakh)					
Approved apportioned cost as per Sanction Order	Approved apportioned cost as per revised Sanction Order	Expenditure upto COD	Additional Capital expenditure		Total Cost as on 31.3.2019
			2017-18	2018-19	
43490.26	58400.00	45950.37	36.86	0.00	45987.24



25. The Commission directed the Petitioner to furnish reasons for the variation of cost of ₹45566.86 lakh between the approved apportioned cost and the estimated completion cost in respect of Asset-IV. In response, the Petitioner has submitted the Sanction Order of ₹58400.00 lakh along with asset-wise break up that indicates that the approved apportioned cost of Asset-IV was ₹43490.30 lakh. However, total cost booked against the asset is ₹45950.37 lakh. Therefore, variation over the sanctioned cost is ₹24.60 lakh, which is only 5.66% over the sanctioned cost. The Petitioner has further submitted that the cost/ckm of Asset-IV is ₹147.75 lakh (₹459504 lakh/311 ckm) which is lower than the benchmark cost determined by the Commission in suo-moto order dated 27.4.2010 at the price index value for the year 2009 (Min. ₹138.05 lakh and Max. ₹182.63 lakh) for the asset of same configuration. As such, the expenditure booked against Asset-IV is reasonable. The Petitioner has further submitted that the Transmission System for evacuation of power from DSTPS & RTPS under 11th Plan, sanction order of ₹58400 lakh was issued on 3.1.2008. At the time of issuance of sanction order, provision of IDC was not considered. The said job was started from 14.5.2008 as given in the Form-12. However, the Petitioner's Board in the meeting held on 20.4.2011, approved borrowings of ₹113000 lakh from "Bonds & REC" for financing the ongoing Transmission and Distribution Projects of the Petitioner, subject to borrowing approval from Ministry of Power, GOI in terms of Section 42 of DVC Act, 1948. Accordingly, the booking of IDC was started from date



of disbursement of interest on loan i.e. from 2011-12 onwards. The Petitioner has sought permission to submit the revised sanction including cost over-run and IDC at the time of true-up.

26. We have considered the submissions of the Petitioner. The estimated completion cost of ₹45987.23 lakh is within the revised apportioned approved cost of ₹58400.00 lakh. Therefore, the capital cost ₹45987.23 lakh claimed by the Petitioner is allowed and considered for the purpose of computation of tariff for Asset-IV. Accordingly, the allowed capital cost as on COD based on revised sanction order certified by Auditor is as follows:-

(₹ In lakh)

Revised Apportioned approved cost as per Sanction Order	Capital cost claimed by the Petitioner as on COD	Capital cost allowed as on COD
58400.00	45950.37	45950.37

Time over-run

27. The commissioning schedule of Asset-IV was 27 months from the date of Letter of Award (LOA). The date of LOA was 14.5.2008. Hence, the SCOD was 15.8.2010, against which the Asset-IV was put into commercial on 30.8.2017. Thus, there is a time over-run of 2573 days.

28. The Petitioner has attributed the time over-run in case of Asset-IV to the delay in grant of forest clearance, Court Stay order, delay in getting railway crossing approval,



delay in Power Line crossings approvals and theft of conductor. The Petitioner vide affidavit dated 10.5.2019 has submitted in detail the reasons of time over-run in case of Asset-IV.

29. MPPMCL has contended that bare perusal of the chronology submitted by the Petitioner reveals that though the date of LoA was 14.5.2008, the request for railway crossing permission for different locations under SER was submitted between 14.12.2009 to 8.2.2010. Thus, there was a delay of 19 to 21 months in submitting the application to the Railway delaying the whole procedure. The Petitioner has not explained the reasons for the delay in approaching for the forest clearance. Similarly, the application for power line crossing of PGCIL was submitted on 3.5.2010 and same was approved on 9.12.2010. However, DVC submitted the proposal for obtaining shut down on 11.1.2016 i.e. after 5 years of approval. Similarly, there was a delay of nearly 3 years in case of power line crossing of WBSETCL. The Petitioner has failed to show the sufficient cause for this delay and to prove that the delay caused was beyond control of the petitioner. The Petitioner has also not submitted CPM and PERT chart to depict the activity-wise proposal and completion of work and has also not clarified the stage at which the delay was caused beyond the control of the petitioner.

30. We have considered the submissions of the Petitioner and MPPMCL. There was a time over-run of 2573 days and the Petitioner has submitted that it was due to (a) delay in forest clearance approval, (b) stay order passed in a PIL (c) delay in obtaining



Railway and Power Line crossing and (d) theft of the Conductor. The Petitioner has provided the reasons of delay and has also submitted the chronology of activities leading to the time over-run. We have also perused the chronology of activities submitted by the Petitioner and the documentary evidence to justify the time over-run.

31. The Asset-IV passes through forest area of 62.5 Ha in West Bengal and Jharkhand. The Petitioner has submitted the proposal for forest clearance on 29.1.2008 and obtained Stage-II forest clearance from West Bengal and Jharkhand Government in the month of 31.5.2012 and 20.7.2012 respectively. The Petitioner was granted permission for tree cutting in forest area in the month of 16.7.2014 and thereafter deposited supervision charges for obtaining permission for tree cutting in forest area under Ranchi forest division on 7.8.2014. Thus, it took 2382 days in obtaining forest clearance. As per the Forest (Conservation) Amendment Rules, 2004 notified by MOEF on 3.2.2004, the timeline for forest approval after submission of proposal is 210 days by the State Government and 90 days by the Forest Advisory Committee of Central Government. Therefore, the processing time of forest approval is 300 days. In the instant case, the Petitioner applied for forest clearance on 29.1.2008 and obtained the same on 7.8.2014. As against the statutory period of 300 days for processing and obtaining the forest clearance, the Forest Authorities took more than 2382 days for grant of forest clearance. Therefore, the delay due to forest clearance for 2382 days was beyond the control of the Petitioner. We are of the view that time period beyond 300 days is not within the control of the Petitioner.



Accordingly, out of the total time over-run of about 2573 days, time over-run of 2082 was beyond the control of the Petitioner and the same is condoned.

32. The Petitioner has submitted that because of High Court order regarding cutting of trees, the Petitioner stopped the cutting of trees and the tree cutting work resumed in the month of June, 2016 and the Petitioner finally completed the tree cutting work in the month of March, 2017. We have gone through the submissions of the Petitioner. It is observed that the Petitioner has obtained tree cutting clearance on 16.7.2014 and the PIL was filed for stopping of tree cutting on 9.6.2015. The Petitioner has not explained the reasons for delay from 16.7.2014 to 9.6.2015. Accordingly, the time over-run from 16.7.2014 to 9.6.2015 is not condoned. The Petitioner was apprised about the suspension of all tree cutting activities under Ranchi Forest Division vide letter dated 13.6.2015 and the Petitioner started the tree cutting work on June, 2016. The Petitioner has completed tree cutting activities in the month of March, 2017. The Petitioner has failed to provide any reasonable justification as to why the Petitioner took 9 months after getting permission to work from June, 2016. The Petitioner's inaction during the time period 16.7.2014 to 9.6.2015 had a cascading effect on the execution of the Asset-IV and the Petitioner has not explained time delay from June, 2016 to March, 2017. Accordingly, the time over-run on account of court cases is not condoned. However, the Petitioner is given liberty to provide evidence, if any, for consideration at the time of truing-up.



33. The time taken by the Petitioner for obtaining for railway line crossing was subsumed by the time taken by the Petitioner for getting forest clearance. As the time taken for forest clearance is already condoned, there is no need to deal with the time taken for obtaining the railway line crossings.

34. The Petitioner has submitted that Asset-IV is crossing EHV lines of PGCIL and WBSETCL. The Petitioner had submitted the proposal pertaining to PGCIL line crossing on 3.5.2010 and working clearance was obtained on 9.12.2010. The Petitioner had submitted the proposal for shutdown on 11.1.2016 and obtained shutdown approval on 29.8.2016. It is observed that though the Petitioner obtained working clearance on 9.12.2010, the Petitioner almost took 6 years for submitting shutdown approval. The Petitioner has not explained the period between 9.12.2010 to 11.1.2016. In view of the non-submission of proper justification pertaining power line crossing, the time over-run on this account is not condoned.

35. The petitioner has submitted that power line crossing pertaining to WBSETCL submitted on 24.5.2010 and final shutdown clearance was obtained on 6.6.2014. We have considered the submissions of the Petitioner and gone through the documentary evidence in support of the power line crossing pertaining to WBSETCL. The time taken for obtaining power line crossing pertaining to WBSETCL is subsumed in the time taken for obtaining forest clearance which has already been condoned.



36. As regards the delay due to theft of conductor, we are of the view that it is the responsibility of the Petitioner to take care of the security of its material and the consequence of its negligence cannot be passed on to the beneficiaries. The Commission in a similar case in order dated 8.6.2011 in Petition No.248/2010 disallowed the request for condoning the time over-run on account of theft of material and the same was also been upheld by the Appellate Tribunal for Electricity, which was adopted by the Commission in order dated 13.10.2017 in Petition No.221/TT/2016. The relevant portion of the order dated 13.10.2017 is extracted hereunder:

“27. In order dated 8.6.2011 in Petition No. 248/2010, the Commission had disallowed the time over-run of four months attributed to the theft of equipment. Against this order, the petitioner filed an Appeal No. 134 of 2011 before the Hon’ble Appellate Tribunal for Electricity (Appellate Tribunal). Appellate Tribunal in its judgment dated 27.4.2012 upheld the Commission’s findings. The relevant part of the judgment dated 27.4.2012 is extracted hereunder:-

“8. As indicated above, the Central Commission has, in the impugned order, in respect of 4 months delay has held that the theft of the equipment cannot be considered to be valid reason to condone the delay as the safety of material was the responsibility of the Appellate and delay due to theft could not be treated as force majeure event. This finding for rejecting the explanation with regard to delay of 4 months due to the theft can be said to be perverse. As correctly pointed out by the Central Commission, the Appellant who was well aware of the route of transmission line, should have made adequate measures to ensure the safety of the location during construction. As this was not done, we cannot hold the explanation for 4 months delay by citing the theft incident as satisfactory.”

On the basis of the principle laid down by the Appellate Tribunal, the Commission in its order dated 8.4.2016 in Petition No. 87/TT/2015 too, had disallowed the time over-run due to theft of material and equipment.”

In view of the above, the period of time over-run due to theft of conductor is not condoned.



37. Accordingly, out of the total time over-run of 2573 days, time over-run of 2082 days is condoned and 491 days is not condoned.

Interest During Construction (excluding Notional IDC)

38. The Petitioner has submitted Auditor's Certificates in support of the IDC claimed for Asset-IV. Taking into consideration "Tariff Form 5", entire IDC has been assumed fully discharged as on COD. The Petitioner has not submitted asset wise statement of IDC identifying amount of loan, drawl date, repayment schedule and rate of interest. In the absence of loan wise details (rate of interest, drawl date of loan, asset wise apportioned loan amount) IDC has not been computed and IDC claimed by the Petitioner has been considered as it is, subject to disallowance on account of time over-run. Accordingly, out of the Petitioner's claim of IDC of ₹10460.89 lakh, ₹1512.90 lakh is disallowed on account of time over-run disallowed. The Petitioner is directed to provide asset wise apportionment of individual gross loan used in construction of the new assets, specific loan drawl date and rate of Interest of Loan used in construction period at the time of true-up.

Incidental Expenditure During Construction (IEDC)

39. The Petitioner has claimed for "Overhead Expense" up to COD vide Auditor's certificate. However, the petitioner has not submitted any discharge statement. Overhead expense head up to COD has been considered as IEDC and presumed to be discharged as on COD. However, "Overhead Expense" after COD has not taken



into consideration. Pro-rata IEDC, claimed up to COD, disallowed on account of time over-run not condoned has been considered as ₹562.43 lakh for Asset-IV. Accordingly, the above mentioned IEDC has been allowed in the instant petition at the time of true-up subject to reconsideration 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.

40. The Petitioner has not claimed any expense for initial spares for the instant assets.

Capital cost allowed as on COD

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

(₹ in lakh)			
Capital Cost allowed as on COD	IDC disallowed due to time over-run	IEDC disallowed IEDC due to time over- run	Capital Cost as on COD considered for tariff calculation
45950.37	1512.90	562.43	43875.04

Additional Capital Expenditure

42. The Petitioner vide affidavit dated 10.5.2019 has claimed the Audited additional capital expenditure of ₹36.86661 lakh for period 2017-18 on account of balance and retention payments and the Petitioner has not claimed any additional capital expenditure for 2018-19 period. We have considered the submissions of the



Petitioner. The Petitioner claims of ₹36.86661 lakh as additional capital expenditure towards balance and retention payments for period 2017-18 is allowed under Regulation 14 of the 2014 Tariff Regulations. Thus, the same has been considered for the period 2017-18 for tariff calculation, subject to truing up.

43. Accordingly, the capital cost as on COD and the additional capital expenditure considered for computation of tariff computation of Asset-IV are as follows:-

(₹ in lakh)		
Capital cost allowed as on COD	Additional capital expenditure during 2017-18	Capital cost allowed as on 31.3.2019
43875.04	36.866	43911.90

Debt- Equity ratio

44. 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 debt-equity 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.”

45. However, the Debt-Equity Ratio for the instant assets have been considered as 70:30 as per Special Provisions relating to DVC as per Regulation 53(2)(iii) of the 2014 Tariff Regulations. Accordingly, the Debt-Equity Ratio has been considered as on COD and 31.3.2019 is given below:-

(₹ in lakh)

Asset-I Particulars	As on COD		As on 31.3.2019	
	Amount	% age	Amount	% age
Debt	132.34	70.00	132.34	70.00
Equity	56.72	30.00	56.72	30.00
Total	189.05	100.00	189.05	100.00

(₹ in lakh)

Asset-II Particulars	As on COD		As on 31.3.2019	
	Amount	% age	Amount	% age
Debt	198.61	70.00	198.61	70.00
Equity	85.12	30.00	85.12	30.00
Total	283.73	100.00	283.73	100.00

(₹ in lakh)

Asset-III Particulars	As on COD		As on 31.3.2019	
	Amount	% age	Amount	% age
Debt	16463.54	70.00	16463.54	70.00
Equity	7055.80	30.00	7055.80	30.00
Total	23519.34	100.00	23519.34	100.00

(₹ in lakh)

Asset-IV Particulars	As on COD		As on 31.3.2019	
	Amount	% age	Amount	% age
Debt	30712.53	70.00	30738.33	70.00
Equity	13162.51	30.00	13173.57	30.00
Total	43875.04	100.00	43911.90	100.00



Return on Equity (RoE)

46. 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:

$$\text{Rate of pre-tax return on equity} = \text{Base rate} / (1-t)$$

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.”

47. The RoE is allowed in accordance with Regulations 24 and 25 of the 2014 Tariff Regulations. The pre-tax rate of 19.610 has been considered. The grossing up RoE of non-ISTS lines carrying ISTS is not allowed. Thus, pre-tax rate of 15.50% is allowed. Accordingly, the following RoE is allowed for the instant assets:-

Particulars	(₹ in lakh)			
	Asset-I		Asset-II	
	2017-18	2018-19	2017-18	2018-19
Opening Equity	56.72	56.72	85.12	85.12
Additional Capitalization	0.00	0.00	0.00	0.00
Closing Equity	56.72	56.72	85.12	85.12
Average Equity	56.72	56.72	85.12	85.12
Return on Equity (Base Rate) (%)	15.50%	15.50%	15.50%	15.50%
MAT rate for the financial year 2013-14 (%)	0.000%	0.000%	0.000%	0.000%



Rate of Return on Equity (Pre Tax) (%)	15.500%	15.500%	15.500%	15.500%
Return on Equity (Pre-tax)	8.79	8.79	13.19	13.19

(₹ in lakh)

Particulars	Asset-III		Asset-IV	
	2017-18	2018-19	2017-18	2018-19
Opening Equity	7055.80	7055.80	13162.51	13173.57
Additional Capitalization	0.00	0.00	11.06	0.00
Closing Equity	7055.80	7055.80	13173.57	13173.57
Average Equity	7055.80	7055.80	13168.04	13173.57
Return on Equity (Base Rate) (%)	15.50%	15.50%	15.50%	15.50%
MAT rate for the financial year 2013-14 (%)	0.000%	0.000%	0.000%	0.000%
Rate of Return on Equity (Pre Tax) (%)	15.500%	15.500%	15.500%	15.500%
Return on Equity (Pre-tax)	1093.65	1093.65	1196.67	2041.90

Interest on Loan (IOL)

48. 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.”

49. The Petitioner has submitted Form-9C incorporating consolidated actual loans for the entire project. In the absence of separate Form-9C for the individual assets, the weighted average rate of interest claimed by the Petitioner in consolidated tariff Form-9C has been considered in tariff calculations, subject to review at the time of true-up. The Petitioner is directed to submit Form 9-C for individual assets at the time of true-up.

50. The details of Interest on Loan calculated for the instant assets are as under:-

Particulars	(₹ in lakh)			
	Asset-I		Asset-II	
	2017-18	2018-19	2017-18	2018-19
Gross Normative Loan	132.34	132.34	198.61	198.61
Cumulative Repayment upto Previous Year	0.00	14.59	0.00	21.90
Net Loan-Opening	132.34	117.74	198.61	176.71
Addition due to Additional Capitalisation	0.00	0.00	0.00	0.00
Repayment during the year	14.59	14.59	21.90	21.90
Net Loan-Closing	117.74	103.15	176.71	154.80
Average Loan	125.04	110.44	187.66	165.76
Weighted Average Rate of Interest on Loan	9.86%	9.86%	9.86%	9.86%
Interest	12.33	10.89	18.50	16.34



(₹ in lakh)

Particulars	Asset-III		Asset-IV	
	2017-18	2018-19	2017-18	2018-19
Gross Normative Loan	16463.54	16463.54	30712.53	30738.33
Cumulative Repayment upto Previous Year	0.00	1815.69	0.00	1986.73
Net Loan-Opening	16463.54	14647.84	30712.53	28751.61
Addition due to Additional Capitalisation	0.00	0.00	25.81	0.00
Repayment during the year	1815.69	1815.69	1986.73	3390.00
Net Loan-Closing	14647.84	12832.15	28751.61	25361.61
Average Loan	15555.69	13740.00	29732.07	27056.61
Weighted Average Rate of Interest on Loan	9.86%	9.86%	9.86%	9.86%
Interest	1533.79	1354.76	1718.79	2667.78

Depreciation

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

"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.”

52. Depreciation has been worked out as per Regulation 27 read with Regulation 53 of the 2014 Tariff Regulations. Depreciation rate @ 7.72%, as approved vide order dated 9.8.2019 in Petition No. 150/TT/2018, has been considered in the instant petition subject to submission of the revised rate at the time of true-up, if any.

53. The details of the depreciation worked out are as under:-



(₹ in lakh)

Particulars	Asset-I		Asset-II	
	2017-18	2018-19	2017-18	2018-19
Opening Gross Block	189.05	189.05	283.73	283.73
Addition during 2014-19 due to Projected Additional Capitalisation	0.00	0.00	0.00	0.00
Closing Gross Block	189.05	189.05	283.73	283.73
Average Gross Block	189.05	189.05	283.73	283.73
Rate of Depreciation	7.7200%	7.7200%	7.7200%	7.7200%
Depreciable Value	170.15	170.15	255.36	255.36
Remaining Depreciable Value	170.15	155.55	255.36	233.45
Depreciation	14.59	14.59	21.90	21.90

(₹ in lakh)

Particulars	Asset-III		Asset-IV	
	2017-18	2018-19	2017-18	2018-19
Opening Gross Block	23519.34	23519.34	43875.04	43911.90
Addition during 2014-19 due to Projected Additional Capitalisation	0.00	0.00	36.87	0.00
Closing Gross Block	23519.34	23519.34	43911.90	43911.90
Average Gross Block	23519.34	23519.34	43893.47	43911.90
Rate of Depreciation	7.7200%	7.7200%	7.7200%	7.7200%
Depreciable Value	21167.41	21167.41	39504.12	39520.71
Remaining Depreciable Value	21167.41	19351.71	39504.12	37533.99
Depreciation	1815.69	1815.69	1986.73	3390.00

Operation & Maintenance Expenses (O&M Expenses)

54. Regulation 29(4)(a) and Regulation 29(4)(c) of the 2014 Tariff Regulations provides the year-wise O&M Expenses norms as under:-

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Transmission Lines					
Double circuit (Twin conductor) (Rs.in lakh/km)	0.707	0.731	0.755	0.780	0.806
Double circuit (Single conductor) (Rs.in lakh/km)	0.303	0.313	0.324	0.334	0.346
Double circuit (Bundled conductor) (Rs.in lakh/km)	1.062	1.097	1.133	1.171	1.210
Single circuit (Single conductor) (Rs.in lakh/km)	0.202	0.209	0.216	0.223	0.230
Bays					
132 kV Bays (Rs.in lakh/km)	30.15	31.15	32.18	33.25	34.36
220 kV Bays (Rs.in lakh/km)	42.21	43.61	45.06	46.55	38.10
400 kV Bays (Rs.in lakh/km)	60.30	62.30	64.37	66.51	68.71



55. The Petitioner has claimed O&M Expenses for Assets-I, II, III and IV as per the norms specified in the 2014 Tariff Regulations and accordingly it is allowed. The details of the O&M Expenses claimed by the Petitioner and allowed and considered for computation of tariff are as follows:-

Assets	(₹ in lakh)	
	2017-18	2018-19
Asset-I	136.05	140.55
Asset-II	141.25	145.93
Asset-III	320.25	330.85
Asset-IV	183.81	325.58

Additional O&M Expenses

56. The Petitioner has claimed additional O&M Expenses in addition to the O&M Expenses claimed under the 2014 Tariff Regulation and they are as follows:-

Assets	(₹ in lakh)	
	2017-18	2018-19
Asset-I	1.63	1.73
Asset-II	3.43	3.65
Asset-III	25.16	26.76
Asset-IV	76.99	81.89

57. The Petitioner has submitted that the expenditure pertaining to common office such as Direction Office, Central Office, Other Offices, Subsidiary Activities, IT Centre and R&D caters services to all the generating stations as well as composite T&D Systems. The total cost of common assets computed based on capital cost as on 31.3.2014 as per Audited Accounts of 2013-14, have been apportioned based on the opening capital cost of all the generating projects and T&D system as on 1.4.2014. The apportioned capital cost for composite T&D system worked out thereby has been



further apportioned based on the opening capital cost of balance T&D system and ISTS line(s) as on 31.3.2018. This methodology was adopted by this Commission in order dated 27.9.2013 in Petition No. 270/TT/2012 for T&D system.

58. On the other hand, MPPPCL, has submitted that the Petitioner has claimed O&M expenses in addition to normative O&M to meet the additional expenses in respect of mega insurance, share of subsidiary activity, CISF security etc. on the plea that the same has been allowed in relaxation of the provisions of the 2009 Tariff Regulations for the period 2009-14 in the order dated 7.8.2013 in Petition No.275/GT/2012. The relaxation once given under special circumstance cannot be referred to as a rule and therefore the prayer of the Petitioner is liable to be turned down. The facts of the case in the present petition are also different from Petition No.275/GT/2012. MPPMCL has submitted that the Commission has arrived at the O&M rates based on past five years actual O&M expenses including wage hike. 10% margin over and above, the effective cumulative annual growth rate of O&M Expenses has also been allowed. The O&M rates of the Petitioners are higher than the rates of State Transmission utilities. MPPMCL has submitted that the high O&M rates will burden the beneficiaries and hence the request for revision of O&M rates may be disallowed.

59. We have considered the submissions of the Petitioner and MPPMCL. The Commission vide order dated 9.8.2019 in Petition No.150/TT/2018 has already allowed the above mentioned additional O&M Expenses. Accordingly, the additional



O&M Expenses claimed by the Petitioner are not being allowed in the instant petition, which is subject to review at the time of truing up.

Common Office Expenditure

60. The Petitioner has claimed the expenses pertaining to common office such as Direction office, Central Office, Other Offices, Subsidiary Activities, IT Centre and R&D caters services to all the generating stations as well as composite Transmission and Distribution Systems. The Petitioner has submitted that the total cost of common assets computed based on the capital cost as on 31.3.2014 as per Audited Accounts of 2013-14 have been apportioned based on the opening capital cost of all the generating projects and T&D systems as on 1.4.2014. This methodology was adopted by the Commission in the order dated 27.9.2013 in Petition No. 270/TT/2012 for T&D system. Based on the above, the Petitioner has furnished the details of projected expenditure in respect of the Common Offices for the period 2017-18 and 2018-19 as follows:-

	(₹ in lakh)	
Assets	2017-18	2018-19
Asset-I	0.60	0.68
Asset-II	1.26	1.42
Asset-III	9.22	10.44
Asset-IV	28.20	31.96

61. We have considered the submissions of the Petitioner. The Commission vide order dated 9.8.2019 in Petition No. 150/TT/2018 has already allowed the above mentioned common office expenses. Accordingly, the common office expenses



claimed by the Petitioner are not allowed.

Pension & Gratuity Contribution and Pay revision

62. The Petitioner has claimed pension and gratuity contribution for the period 2014-19 and has submitted that it has considered the actuarial valuation as on 31.3.2014, for liability towards pension and gratuity fund and projected P&G liability for the tariff period 2014-19 including impact of pay revision. The Petitioner in Form-1 of the petition has submitted details of Pension and Gratuity and impact of Pay Revision for period 2017-18 and 2018-19 and the same is as follows:

(₹ in lakh)

Assets	2017-18	2018-19
Asset-I	19.76	19.76
Asset-II	41.58	41.58
Asset-III	304.87	304.87
Asset-IV	932.88	932.88

63. We have considered the submission made by the Petitioner. With regard to P&G expenses, the Commission in para 67 of order dated 9.8.2019 in Petition No. 150/TT/2018 has held as under:

“67. We have examined the matter. As stated, the Petitioner has filed Petition No. 197/MP/2016 claiming P&G expenses over and above the normative O&M expenses specified under the 2014 Tariff Regulations. Similar claim has been made by the Petitioner in this Petition. Considering the fact that the said issue needs to be decided in Petition No. 197/MP/2016, we find no reason to consider this prayer of the Petitioner in the order. However, the decision taken in Petition No. 197/MP/2016 will be applicable to this case.”



64. In this regard, the Commission in order dated 4.9.2019 in Petition No. 197/MP/2016 filed by the Petitioner for allowing P&G contribution for the period 2014-19 and impact of revision of pay due to 7th Pay Commission had observed as under:-

“25. It is therefore evident from the above that the P&G claim of the Petitioner for the period 2014-19 was rejected based on the decision taken by the Commission in respect of P&G liability claimed by the Petitioner for the period 2009-14. While framing the 2014 Tariff Regulations, the Commission had sought details of the actual O&M expenses for the period from 2008-09 to 2012-13 incurred by the various generating units & transmission systems owned by different companies like the Petitioner, NTPC, NLCIL, PGCIL etc. Based on the details furnished, the O&M expenses incurred by the central generating stations, were broadly classified by the Commission into three heads namely (i) Repair and Maintenance Expenses (ii) Administrative & General Expenses and (iii) Employee Expenses. The employee expenses, in general, form a considerable part of O&M expenses and includes all types of employee related expenses like Salary, contribution to CPF, gratuity, pension, etc., However, the submission of the Petitioner that no part of P&G contribution related to power business were factored in the O&M expenses during the base years cannot be appreciated in the absence of any supporting details/data being furnished by the Petitioner. As stated, the normative O&M expenses were specified under Regulation 29 of the 2014 Tariff Regulations after giving due consideration of the requirements of various generating companies. The Petitioner DVC has argued that in so far as the liability of pension for its employees is concerned, it is unique and different from those prevalent in other central generating stations regulated by this Commission since the revision of pension from time to time, is based on the decision of the Central Govt. However, the information/details available on record do not support the aforesaid submission of the Petitioner that it incurs extra expenditure on terminal benefits to the employees over and above the normative O&M expenses under the 2014 Tariff Regulations. In the above background and in the absence of any supporting details/data, the prayer of the Petitioner cannot be granted in this order. However, the Petitioner is at liberty to claim the said relief with all relevant information/documents including the (a) actuarial valuation; (b) actual data duly audited and certified by the auditor and (c) annual accounts of the pension fund, at the time of truing up of tariff in terms of Regulation 8 of the 2014 Tariff Regulations.

26. The Petitioner, in this Petition, has also claimed the impact of pay revision on account of pending implementation of the 7th Central Pay Commission (CPC), on projected basis. This claim is, however, based on the recommendations of the 6th Pay Commission, as the recommendations of the 7th Pay Commission are yet to be implemented. It is noticed that the O&M expenses incurred by the central generating stations, including DVC, were broadly classified by the Commission into three heads namely (i) Repair and Maintenance Expenses (ii) Administrative & General Expenses and (iii) Employee Expenses. Accordingly, in the draft Tariff Regulations, the Commission had provided for a normative percentage (40%) of Employee cost to the



total O&M expenses for different type of generating stations. However, in the Statement of Reasons to the 2014 Tariff Regulations, the Commission had made it clear that as regards the increase in employee cost, it would like to review the same on case to case basis. The relevant portion is extracted hereunder:

“29.26. Some of the generating stations have suggested that the impact of pay revision should be allowed on the basis of actual share of pay revision instead of normative 40% and one generating company suggested that the same should be considered as 60%. In the draft Regulations, the Commission had provided for a normative percentage of employee cost to total O&M expenses for different type of generating stations with an intention to provide a ceiling limit so that it does not lead to any exorbitant increase in the O&M expenses resulting in spike in tariff. The Commission would however, like to review the same considering the macro economics involved as these norms are also applicable for private generating stations. In order to ensure that such increase in employee expenses on account of pay revision in case of central generating stations and private generating stations are considered appropriately, the Commission is of the view that it shall be examined on case to case basis, balancing the interest of generating stations and consumers.”

27. We notice that subsequently, the Petitioner has implemented the recommendations of the 7th Pay Commission for its employees with effect from 1.1.2016. In view of this, the impact of pay revision, after implementation of the 7th Pay Commission, is required to be examined on actual basis, on prudence check of the information/ details to be submitted by the Petitioner. Accordingly, we direct the Petitioner to furnish the actual impact of pay revision based on the recommendations of the 7th CPC, effective from 1.1.2016, along with details of HRA and transport allowance from July, 2017. The aforesaid details/information shall be furnished by the Petitioner at the time of truing up of tariff and the same will be considered in accordance with law.”

65. As observed in order dated 4.9.2019, the Petitioner is directed to submit the claim as regards P&G with all relevant information/ documents including the (a) actual data duly audited and certified by the Auditor and (b) annual accounts of the pension fund, at the time of truing up of tariff in terms of Regulation 8 of the 2014 Tariff Regulations. Further, the Petitioner is directed to furnish the actual impact of pay revision based on the recommendations of the 7th CPC, effective from 1.1.2016, along



with details of HRA and transport allowance from July 2017 at the time of truing up of the 2014-19 tariff and the same will be considered as per the applicable regulations.

Interest on Working Capital (IWC)

66. 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 72 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;”

67. The Petitioner is entitled to claim IWC as per Regulation 28(1)(c) of the 2014 Tariff Regulations. The components of the working capital and the Petitioner's entitlement to interest thereon are discussed hereunder:-



(i) Receivables

Receivables have been worked out on the basis of two months' of annual transmission charges.

(ii) Maintenance spares

Maintenance spares has been worked out @ 15% per annum of the O&M Expenses specified in Regulation 28.

(iii) O & M Expenses

O&M Expenses have been considered for one month as a component of working capital.

(iv) Rate of Interest on Working Capital

As per Regulation 28(3) of the 2014 Tariff Regulations, SBI Base Rate Plus 350 bps as on 1.4.2017 (i.e.12.60%) has been considered as the rate of IWC.

68. The IWC allowed for the instant assets is shown in the table below:-

(₹ in lakh)

Particulars	Asset-I		Asset-II	
	2017-18	2018-19	2017-18	2018-19
Maintenance Spares	20.41	21.08	21.19	21.89
O & M expenses	11.34	11.71	11.77	12.16
Receivables	29.92	30.47	33.88	34.33
Total	61.67	63.26	66.84	68.38
Interest	7.77	7.97	8.42	8.62

(₹ in lakh)

Particulars	Asset-III		Asset-IV	
	2017-18	2018-19	2017-18	2018-19
Maintenance Spares	48.04	49.63	47.03	48.84
O & M expenses	26.69	27.57	26.13	27.13
Receivables	812.53	783.91	1478.37	1435.96
Total	887.25	861.11	1551.52	1511.93
Interest	111.79	108.50	114.62	190.50



Annual Transmission Charges

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

(₹ in lakh)

Particulars	Asset-I		Asset-II	
	2017-18	2018-19	2017-18	2018-19
Depreciation	14.59	14.59	21.90	21.90
Interest on Loan	12.33	10.89	18.50	16.34
Return on Equity	8.79	8.79	13.19	13.19
Interest on Working Capital	7.77	7.97	8.42	8.62
O & M Expenses	136.05	140.55	141.25	145.93
Total	179.53	182.80	203.27	205.99

(₹ in lakh)

Particulars	Asset-III		Asset-IV	
	2017-18	2018-19	2017-18	2018-19
Depreciation	1815.69	1815.69	1986.73	3390.00
Interest on Loan	1533.79	1354.76	1718.79	2667.78
Return on Equity	1093.65	1093.65	1196.67	2041.90
Interest on Working Capital	111.79	108.50	114.62	190.50
O & M Expenses	320.25	330.85	183.81	325.58
Total	4875.18	4703.46	5200.61	8615.77

Filing Fee and the Publication Expenses

70. 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.



Licence Fee and RLDC fees and Charges

71. The Petitioner shall be entitled for reimbursement of licence fee and RLDC fees and charges in accordance with Clause (2)(b) and (2)(a), respectively, of Regulation 52 of the 2014 Tariff Regulations.

Sharing of Transmission Charges

72. As prayed by the Petitioner, the transmission charges allowed in this order, as provided in Regulation 43 of the 2014 Tariff Regulations, shall be recovered on monthly basis and the billing collection and disbursement shall be governed by provisions of the Central Electricity Regulatory Commission (Sharing of inter-State Transmission Charges and Losses) Regulations, 2010, as amended from time to time.

73. In terms of the above, Petition No. 334/TT/2018 stands disposed of.

**sd/-
(I. S. Jha)
Member**

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

**sd/-
(P. K. Pujari)
Chairperson**

