

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 114/TT/2020

Coram:

Shri I.S. Jha, Member
Shri Arun Goyal, Member

Date of Order: 16.02.2021

In the matter of:

Approval under Regulation 86 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and truing-up of transmission tariff of the 2014-19 period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 and determination of transmission tariff of the 2019-24 period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 of 2019-24 tariff block in respect of Special Protection Scheme (SPS) for Northern Regional Grid Stage-II in the Northern Region.

And in the matter of:

Power Grid Corporation of India Ltd.,
SAUDAMINI, Plot No-2,
Sector-29, Gurgaon-122 001 (Haryana)

.....**Petitioner**

Vs

1. Haryana Power Purchase Centre, IInd Floor,
Shakti Bhawan, Sector-6, Panchkula-134109.
2. Himachal Pradesh State Electricity Board,
Vidyut Bhawan,
Shimla-171 004 (H.P).
3. Punjab State Power Corporation Ltd.,
Thermal Shed Tia,
Near 22 Phatak,
Patiala-147001.
4. Power Development Department,
Janipura Grid Station,
Jammu (Tawi) 180007.
5. Uttar Pradesh Power Corporation Ltd. (UPPCL),
10th Floor, Shakti Bhawan Extn.,
14, Ashok Marg, Lucknow-226001.



6. Delhi Transco Ltd.,
Shakti Sadan,
Kotla Road (near ITO). New Delhi.
7. Chandigarh Electricity Department,
UT-Chandigarh, Div-11, Opposite, Transport Nagar,
Industrial Area Phase-I,
Sector-9, Chandigarh.
8. Uttarakhand Power Corporation Ltd.,
Urja Bhawan, Kanwali Road,
Dehradun.
9. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,
132 kV, GSS RVPNL Sub-Station Building,
Caligiri Road, Malviya Nagar,
Jaipur-302017 (Rajasthan).
10. Ajmer Vidyut Vitran Nigam Ltd.,
132 kV, GSS RVPNL Sub-Station Building,
Caligiri Road, Malviya Nagar,
Jaipur-302017 (Rajasthan).
11. Jodhpur Vidyut Vitran Nigam Ltd.,
132 kV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar,
Jaipur-302017 (Rajasthan).
12. Jaipur Vidyut Vitran Nigam Ltd.,
132 KV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar,
Jaipur-302017 (Rajasthan).
13. Northern Central Railway,
Allahabad.
14. BSES Yamuna Power Ltd., (Delhi Discom),
B Block, Shakti Kiran, Bldg. (Near Karkadooma Court),
Karkadooma, 2nd Floor, Delhi-110092.
15. BSES Rajdhani Power Ltd., (Delhi Discom) (BRPL),
Bus Terminal, Nehru Place,
BSES Bhawan, Behind Nehru Place,
New Delhi-110019.
16. Tata Power Delhi Distribution Ltd.,
33 kV Sub-station, Building,
Hudson Lane,
Kingsway Camp,



North Delhi-110009.

17. New Delhi Municipal Council,
Palika Kendra, Sansad Marg,
New Delhi-110002.

...Respondent(s)

For Petitioner: Shri S. S. Raju, PGCIL
Shri A. K. Verma, PGCIL
Shri B. Dash, PGCIL

For Respondent: Shri R. B. Sharma, Advocate, BRPL

ORDER

The instant Petition has been filed by Power Grid Corporation of India Limited (hereinafter referred to as “the Petitioner”), a deemed transmission licensee, for truing up of the tariff of the period from 1.4.2014 to 31.3.2019 under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as “the 2014 Tariff Regulations”) and for determination of tariff for the period from 1.4.2019 to 31.3.2024 under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (hereinafter referred to as “the 2019 Tariff Regulations”) in respect of “Special Protection Scheme (SPS) (hereinafter referred to as “transmission asset”) for “Northern Regional Grid Stage-II” in the Northern Region (hereinafter referred to as “transmission project”).

2. The Petitioner has made the following prayers in this Petition:

“1) Approve the trued up Transmission Tariff for 2014-19 block and transmission tariff for 2019-24 block for the asset covered under this petition as per para 7.3 and 8.1 above.

2) 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 in Tariff Regulation 2014 and Tariff regulations 2019 as per para 7.3 and 8.1 above for respective block.

3) Approve the reimbursement of expenditure by the beneficiaries towards petition filing fee, and expenditure on publishing of notices in newspapers in terms of Regulation 70 (1) Central Electricity Regulatory Commission (Terms and Conditions of



Tariff) Regulations, 2019, and other expenditure (if any) in relation to the filing of petition.

4) Allow the petitioner to bill and recover Licensee fee and RLDC fees and charges, separately from the respondents in terms of Regulation 70 (3) and (4) Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019.

5) 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 2019-24 period, if any, from the respondents.

6) Allow the petitioner to file a separate petition before Hon'ble Commission for claiming the overall security expenses and consequential IOWC on that security expenses as mentioned at para 8.7 above.

7) Allow the petitioner to claim the capital spares if applicable at the end of tariff block as per actual.

8) Allow the Petitioner to bill and recover GST on Transmission Charges separately from the respondents, if GST on transmission is levied at any rate in future. Further, any taxes including GST 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 brief facts of the case are as under:

a) The Investment Approval for the transmission project was accorded by the Board of Directors of the Petitioner Company *vide* letter dated 14.2.2012 at an estimated cost of ₹243 lakh including IDC of ₹4.00 lakh (based on 2nd quarter, 2011 price level).

b) The tariff was allowed from 1.4.2014 (COD) to 31.3.2019, *vide* order dated 22.9.2016 in Petition No. 243/TT/2014 in accordance with the 2014 Tariff Regulations. The entire scope of work is covered under the instant Petition.

c) The Petitioner has claimed the trued up transmission tariff as under:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Annual Fixed Charges (AFC) approved in order dated 22.9.2016 in Petition No. 243/TT/2014	38.00	40.55	39.12	37.70	36.27
AFC claimed by Petitioner based on truing up in the instant Petition	34.36	33.06	32.80	32.05	30.78



4. The Respondents are distribution licensees and power departments, which are procuring transmission services from the Petitioner and are mainly beneficiaries of the Northern Region.

5. The Petitioner has served the Petition on the Respondents and notice of the instant Petition has been published in the newspaper in accordance with Section 64 of the Electricity Act, 2003. No suggestions and objections have been received from the general public in response to the aforesaid notice published in the newspaper by the Petitioner. A general Notice dated 12.3.2020 directing the beneficiaries/ Respondents to file reply in the matter was also published on Commission's website. BRPL, Respondent No.15, has filed its reply dated 17.7.2020 in which issues like O&M Expenses, Deferred Tax Liability (DTL) and over payment of income tax, Effective Tax Rate for grossing up of Return on Equity (RoE) and the effect of GST and additional taxes have been raised. BRPL has also filed a common additional reply in the instant petition dated 3.8.2020 in which issues of effective tax rate, system generated report, filing of statutory regional financial documents for transmission business to ascertain the actual tax paid during the tariff period for 2014-19 has been raised. BRPL filed hard copy of its reply dated 17.7.2020 vide affidavit dated 24.9.2020 after lifting of the lockdown due to Covid-19 pandemic. UPPCL, Respondent No. 5, has filed its reply vide affidavit dated 23.1.2020 in which issues of depreciation, interest on loan, RoE and O&M expenses have been raised. The Petitioner vide affidavits dated 4.5.2020, 24.7.2020, 14.8.2020 and 27.7.2020 has filed reply to Technical Validation (TV) letter, Form 3, rejoinder to BRPL's reply dated 17.7.2020 and rejoinder to the reply of UPPCL respectively. Further, the Petitioner has also filed copy of common rejoinder dated 13.8.2020 to the reply of BRPL. The issues raised by BRPL and UPPCL and



the clarifications given by the Petitioner are dealt with in the relevant portions of this order.

6. The hearing in this matter was held on 28.7.2020 through video conference and the order was reserved.

7. This order is issued considering submissions made by the Petitioner *vide* affidavits dated 16.10.2019, 4.5.2020 and 24.7.2020, UPPCL's reply *vide* affidavit dated 23.1.2020 and Petitioner's rejoinder affidavit dated 27.7.2020, BRPL's reply dated 17.7.2020 and the Petitioner's rejoinder *vide* affidavit dated 14.8.2020, BRPL's common additional reply dated 3.8.2020 and common rejoinder of the Petitioner dated 13.8.2020.

8. Having heard the representatives of the Petitioner and having perused the material on record, we proceed to dispose of the Petition.

TRUING UP OF ANNUAL FIXED CHARGES OF THE 2014-19 TARIFF PERIOD

9. The details of the trued up transmission charges claimed by the Petitioner in respect of the transmission asset are as under:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	11.15	11.26	11.73	12.15	12.15
Interest on Loan	12.07	10.54	9.38	7.83	6.56
Return on Equity	10.37	10.52	10.95	11.35	11.38
Interest on Working Capital	0.77	0.74	0.74	0.72	0.69
O&M Expenses	-	-	-	-	-
Total	34.36	33.06	32.80	32.05	30.78

10. The details of the trued up Interest on Working Capital (IWC) claimed by the Petitioner in respect of the transmission asset is as under:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
O&M Expenses	0.00	0.00	0.00	0.00	0.00



Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Maintenance Spares	0.00	0.00	0.00	0.00	0.00
Receivables	5.73	5.51	5.47	5.34	5.13
Total Working Capital	5.73	5.51	5.47	5.34	5.13
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
Interest on Working Capital	0.77	0.74	0.74	0.72	0.69

Capital Cost

11. The capital cost of ₹175.12 lakh for the transmission asset was admitted by the Commission as on date of commercial operation (COD), i.e., 1.4.2014 *vide* order dated 22.9.2016 in Petition No.243/TT/2014. In the instant Petition, Petitioner has claimed the same capital cost of ₹175.12 lakh as admitted by the Commission in its earlier order dated 22.9.2016 in Petition No. 243/TT/2014. The Commission has considered the same capital cost of ₹175.12 lakh to work out true up tariff for the 2014-19 tariff period, in accordance with Regulation 9(2) of the 2014 Tariff Regulations.

Additional Capital Expenditure (ACE)

12. The Commission *vide* order dated 22.9.2016 in Petition No.243/TT/2014 had allowed ACE of ₹39.41 lakh for the transmission asset in 2014-19 towards balance and retention payments.

13. The Petitioner has now claimed the following ACE for the transmission asset based on actual expenditure:

(₹ in lakh)					
2014-15	2015-16	2016-17	2017-18	2018-19	Total
2.02	1.43	13.41	0.00	0.00	16.86

14. The Petitioner has submitted that ACE incurred during 2014-19 period is within the cut-off date and is claimed under Regulation 14(1)(i) and (ii) of 2014 Tariff Regulations. Further, no IDC, IEDC or Initial Spares are claimed for the transmission



asset. In response to the TV letter dated 20.3.2020, the Petitioner *vide* affidavit dated 4.5.2020 has furnished additional information regarding payments to contractors /ACE as under:

(₹ in lakh)			
Parties	2014-15	2015-16	2016-17
Commтел	1.88	1.43	-
Deligent	0.14	-	-
Alstom T&D India Ltd.	-	-	13.41
Total	2.02	1.43	13.41

15. Further, the Petitioner has submitted that ACE is towards payment of un-discharged liability within the original scope and for works carried out prior to the cut-off date.

16. We have considered the submissions made by the Petitioner and the claim has been verified from the Auditor Certificate dated 8.8.2019. Further, the capital cost of ₹191.98 lakh as on 31.3.2019 is within the approved apportioned capital cost of ₹242.72 lakh. The ACE claimed by the Petitioner has been allowed under Regulation 14(1)(i) and (ii) of the 2014 Tariff Regulations as it pertains to un-discharged liability within the scope of work executed prior to the cut-off date. The ACE allowed for the transmission asset for the 2014-19 tariff period is as follows:

(₹ in lakh)					
Approved Apportioned Capital Cost	Admitted Capital Cost as on COD	2014-15	2015-16	2016-17	Total Capital Cost as on 31.3.2019
242.72	175.12	2.02	1.43	13.41	191.98

Debt-Equity Ratio

17. The Petitioner has claimed Debt-Equity Ratio of 70:30 as on the date of commercial operation. Debt-Equity Ratio of 70:30 is considered as provided in Regulation 19 of the 2014 Tariff Regulations. The details of debt and equity in respect of the transmission asset as on 1.4.2014 and as on 31.3.2019 are as under:



Particulars	Capital Cost as on 1.4.2014 (₹ in lakh)	(%)	ACE 2014-19 (₹ in lakh)	(%)	Total Capital Cost as on 31.3.2019 (₹ in lakh)	(%)
Debt	122.58	70.00	11.82	70.00	134.40	70.00
Equity	52.54	30.00	5.04	30.00	57.58	30.00
Total	175.12	100.00	16.86	100.00	191.98	100.00

Depreciation

18. The gross asset during the tariff period 2014-19 has been depreciated at the rate of depreciation of 6.33% as per Regulation 27 of the 2014 Tariff Regulations (as placed in Annexure I of this order).

19. UPPCL has submitted that considering 90% depreciable value of asset and 15 years useful life, the rate of depreciation applicable to the project should be 6.00% instead of 6.33%. In response, the Petitioner *vide* affidavit dated 27.7.2020, has submitted that depreciation is calculated annually based on Straight Line Method and at rates specified in Annexure II of the 2014 Tariff Regulations. The Petitioner has further submitted that for the calculation of tariff, the transmission asset has been considered as communication equipment. The rate of depreciation for communication equipment as per the 2014 Tariff Regulations is 6.33% and the same has been considered in the instant Petition. The Commission in its order dated 22.9.2016 in Petition No.243/TT/2014 has also approved depreciation at the same rate.

20. We have considered the submissions of the Petitioner and UPPCL. The rate of depreciation has been worked out after taking into account the depreciation rate of asset as prescribed in the 2014 Tariff Regulations. Trued up depreciation allowed during 2014-19 period is as under:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation					
Opening Gross Block	175.12	177.14	178.57	191.98	191.98
ACE	2.02	1.43	13.41	0.00	0.00



Closing Gross Block	177.14	178.57	191.98	191.98	191.98
Average Gross Block	176.13	177.86	185.28	191.98	191.98
Rate of Depreciation (%)	6.33	6.33	6.33	6.33	6.33
Balance useful life of the asset	15	14	13	12	11
Elapsed life at the beginning of the year	0	1	2	3	4
Aggregate Depreciable Value	158.52	160.07	166.75	172.78	172.78
Depreciation during the year	11.15	11.26	11.73	12.15	12.15
Aggregate Cumulative Depreciation	11.15	22.41	34.14	46.29	58.44
Remaining Aggregate Depreciable Value	147.37	137.66	132.61	126.49	114.34

21. Accordingly, depreciation approved in order dated 22.9.2016 in Petition No. 243/TT/2014, claimed by the Petitioner in the instant Petition and true up depreciation allowed in this order is as under:

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 22.9.2016 in Petition No. 243/TT/2014	12.33	13.58	13.58	13.58	13.58
Claimed by the Petitioner in the instant Petition	11.15	11.26	11.73	12.15	12.15
Allowed after true-up in this order	11.15	11.26	11.73	12.15	12.15

Interest on Loan (IoL)

22. The Petitioner has claimed the weighted average rate of IoL based on its actual loan portfolio and rate of interest.

23. UPPCL has submitted that IoL should be claimed based on correct figures of cumulative repayment of loan. In response, the Petitioner *vide* common affidavit for various petitions dated 24.7.2020 (hereinafter referred to as “the affidavit dated 24.7.2020”), has submitted that the repayment of loan is considered as per Regulation 26(3) of the 2014 Tariff Regulations. Accordingly, IoL has been calculated considering repayment of loan in accordance with the 2014 Tariff Regulations. The detailed calculation has been provided in Form 9E enclosed with the Petition. Therefore, the Petitioner has submitted that the contentions of UPPCL pertaining to IoL are incorrect.



24. We have considered the submissions of the Petitioner and UPPCL. IoL has been calculated based on actual interest rate, in accordance with Regulation 26 of the 2014 Tariff Regulations. Trued up IoL allowed is as under:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Gross Normative Loan	122.58	124.00	125.00	134.39	134.39
Cumulative Repayments upto Previous Year	0.00	11.15	22.41	34.14	46.29
Net Loan-Opening	122.58	112.85	102.59	100.25	88.10
Additions	1.41	1.00	9.39	0.00	0.00
Repayment during the year	11.15	11.26	11.73	12.15	12.15
Net Loan-Closing	112.85	102.59	100.25	88.10	75.95
Average Loan	117.72	107.72	101.42	94.17	82.02
Weighted Average Rate of Interest on Loan (%)	10.2500	9.7840	9.2446	8.3143	7.9932
Interest on Loan	12.07	10.54	9.38	7.83	6.56

25. Accordingly, IoL approved earlier in order dated 22.9.2016 in Petition No. 243/TT/2014, claimed by the Petitioner in the instant Petition and trued up in the instant order is shown in the table as under:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 22.9.2016 in Petition No. 243/TT/2014	13.35	13.43	12.04	10.65	9.26
Claimed by the Petitioner in the instant petition	12.07	10.54	9.38	7.83	6.56
Allowed after true-up in this order	12.07	10.54	9.38	7.83	6.56

Return on Equity (RoE)

26. The Petitioner is entitled for RoE for the transmission asset in terms of Regulations 24 and 25 of the 2014 Tariff Regulations. The Petitioner has submitted that it is liable to pay income tax at Minimum Alternate Tax (MAT) rates and has claimed following effective tax rates for the 2014-19 tariff period:

Year	Claimed effective tax (in %)	Grossed up RoE (Base Rate/1-t) (in %)
2014-15	21.018	19.625
2015-16	21.382	19.716
2016-17	21.338	19.705



Year	Claimed effective tax (in %)	Grossed up RoE (Base Rate/1-t) (in %)
2017-18	21.337	19.704
2018-19	21.549	19.758

27. BRPL has submitted that the information regarding Income Tax Assessment submitted by the Petitioner is in respect of the entire PGCIL and not in respect of the tax on the transmission business in respect of the Northern Region. Accordingly, the said information is not the relevant information for the purposes of effective tax rate. BRPL has submitted that on the basis of the financial statements of the Petitioner in public domain, BRPL has worked out the effective tax rate of the Petitioner which stands at 8.70% for 2014-15 and 'NIL' in 2015-16, 2016-17, 2017-18 and 2018-19. BRPL has submitted that the actual tax rate applicable to the transmission licensee was to be trued up along with truing up of tariff to be determined in accordance with Regulation 6 of the 2009 Tariff Regulations and based on the truing up of tariff if the recovered tariff exceeded the tariff approved, the Petitioner should have refunded to beneficiaries along with simple interest. BRPL has submitted that infrastructure transmission companies have been allowed huge tax benefits under the Income Tax Act, 1961 (hereinafter referred to as "1961 Act") in the form of Tax Holiday for enterprises engaged in infrastructure development etc. as per Section 80IA of the 1961 Act and other benefits like the higher depreciation allowed in initial years. BRPL has submitted that the Petitioner has already stated on affidavit that the effective tax rate is zero and accordingly the effective tax rate for the earlier tariff period (2009-14) would also be zero since the benefits of the tax holiday under Section 80IA of the 1961 Act and other benefits like the higher depreciation etc. were also applicable during earlier tariff period. Regulation 49 of the 2014 Tariff Regulations restricts the claim of tax amount only to deferred tax liabilities up to 31.3.2009 whenever it will



materialize. BRPL has also submitted that the claims of deferred tax are required to be adjusted for the tariff period 2004-09.

28. In response, the Petitioner has submitted that the Petitioner does not file income tax return on transmission business in respect of particular region as the company is having a single PAN and there is no provision in the 1961 Act to file separate returns on the basis of nature of business being undertaken by any entity. All the documents in support of Income tax (either returns or assessment orders) are for the Petitioner's company as a whole. The Auditor's certificate clearly showing income from transmission income and income from other segments along with copy of assessment order/ income return which is relevant to derive the effective tax rate has already been submitted in Petition No. 24/TT/2020. The Petitioner has submitted that it has computed effective tax rate based on actual tax paid pursuant to assessment orders for years 2014-15, 2015-16 and 2016-17. The income tax due for 2017-18 and 2018-19 has been deposited and tax returns have already been filled. However, assessment orders are yet to be received. The Petitioner has further submitted that after deducting depreciation and tax holiday benefit under normal provision, the income tax for the respective year has been calculated along with surcharge and cess, which works out to be in the range of 33.99% to 34.944% during financial years 2014-15 to 2018-19. In case, the tax computed under normal provision is less than the tax calculated on book profit at the percentage prescribed under Section 115JB (Minimum Alternate Tax), the Company has to pay tax computed as per the provisions of section 115JB of the 1961 Act which works out between 20.96% to 21.5488% (including surcharge and cess). Hence, the Petitioner Company is paying MAT. The Petitioner has further submitted that Regulation 15(3) of the 2009 Tariff Regulations provide that RoE shall be grossed up with MAT/Corporate Income tax rate of the transmission



licensee and not the tax rate of the assets or region. The Petitioner has submitted that Form-3 is a system generated form and due to a system error/ constraint the header in Form-3 displays 0.00 instead of blank as the effective tax rate is mentioned in the following rows. The aforementioned error has been rectified. The Petitioner has submitted that it is eligible for claiming the deferred tax liabilities for the period up to 31.3.2009 on materialization on subsequent period i.e. financial year 2009-10 onwards. The Petitioner is only claiming the reimbursement of Income tax liability, discharged as per the provisions of Income Tax Act.

29. UPPCL has submitted that the rate of RoE for 2016-17, 2017-18 and 2018-19 which are 19.705%, 19.705% and 19.758% respectively have been calculated on the basis of presumptive value of MAT rates. Therefore, the Petitioner be directed to submit the figures of RoE derived on the basis of MAT rates approved by the Income Tax Authorities. In response, the Petitioner *vide* affidavit dated 24.7.2020 has submitted that it has been paying tax under the provisions of section 115JB of the Income Tax Act, 1961 (MAT provisions). It has further submitted that it has submitted effective tax rates for all the financial years starting from 2014-15 to 2018-19. The effective tax rates are supported by Auditor Certificate submitted along with the Petition. Further, the Commission has already determined the effective tax rates based on notified MAT rates in the previous orders pertaining to the Petitioner, so far as trued up transmission tariff for 2014-19 period is concerned. The Petitioner has requested that it should be allowed to claim the differential tariff on receipt of Income Tax Assessment orders for the tariff period 2014-19 for respective years, directly from the beneficiaries on year to year basis as provided in the relevant tariff regulations.

30. The Petitioner *vide* affidavit dated 24.7.2020 has submitted the revised "Form 3 Normative parameters considered for tariff computations" for 2014-19 tariff period,



wherein the effective tax rate submitted in the original Petition was getting reflected as zero instead of blank line, since it was system generated form. In response, BRPL vide its common additional reply dated 3.8.2020 has submitted that the Petitioner may be directed to file the statutory regional financial documents for transmission business to ascertain the actual tax paid during the tariff period for 2014-19 for the purposes of the truing up. The Petitioner in response vide affidavit dated 13.8.2020 has filed a rejoinder submitting that it has filed the documentary evidence for income and actual tax paid by it in each year alongwith the rejoinder.

31. We have considered the submissions of the Petitioner and BRPL and UPPCL. The Commission vide order dated 24.1.2021 in Petition No. 136/TT/2020 has already dealt with the concerns of the Respondents. The relevant paragraphs of the order are extracted as under:

“52. We have considered the contentions of BRPL and UPPCL and the clarifications given by the Petitioner. BRPL has contended that details of the income tax submitted by the Petitioner are in respect of the Petitioner’s company as a whole and it does not pertain to the transmission business in Northern Region. The Petitioner has clarified that every registered company has only one single PAN and it has to file one single return and the Petitioner cannot file income tax separately for each region. BRPL has contended that as per the information available in public domain, the Petitioner has to pay the effective tax rate for 2014-15 @8.70% and for the period 2015-19, it is zero and that the excess recovery made by the Petitioner should be returned to the beneficiaries along with simple interest as provided in Regulation 6 of the 2009 Tariff Regulations. The Petitioner has clarified that the effective tax rate was shown as zero for the period 2015-19 inadvertently due to technical reasons and the Petitioner has paid income tax for the said period. The Petitioner has also clarified that as per the provisions of the 1961 Act, tax has to be computed under normal provisions of Income Tax Rules, 1962 and as per MAT provisions under the section 115JB of the 1961 Act and the assessee will have to pay tax higher of the two. As per the submission, during the tariff period 2014-19, the Petitioner calculated the income tax under regular provisions of the 1961 Act (with tax rates of 33.99% to 34.944%) and the tax was worked out to be lower than the tax payable under MAT rates due to deductions under section 80IA and availability of accelerated depreciation under Income Tax. Thus, the Petitioner has been assessed and paid tax under MAT. We are satisfied with the clarifications given by the Petitioner and convinced that the Petitioner has acted prudently and has complied with the provisions of the 1961 Act and the provisions of the tariff regulations.

53. As regards UPPCL’s contention that the grossed up rate of RoE for the period 2016-17 to 2018-19 is not based on the MAT rates approved by the Income Tax Authorities, it is observed that the effective rate of tax considered by the Petitioner for 2014-15, 2015-16 and 2016-17 are based on Assessment Orders issued by Income Tax authorities and the effective rate of tax considered for 2017-18 and 2018-19 are based



on the Income Tax returns filed for the purpose of grossing up the RoE rate of respective years. In view of the clarification given by the Petitioner, we are of the view that there is no merit in the contention of UPPCL.”

32. The Commission in its order dated 27.4.2020 in Petition No. 274/TT/2019 has arrived at the effective tax rate for the Petitioner based on the notified MAT rates. The relevant portion of the order dated 27.4.2020 is as under:

“26. We are conscious that the entities covered under MAT regime are paying Income Tax as per MAT rate notified for respective financial year under IT Act, 1961, which is levied on the book profit of the entity computed as per the Section 115JB of the IT Act, 1961. The Section 115JB(2) defines book profit as net profit in the statement of Profit & Loss prepared in accordance with Schedule-III of the Companies Act, 2013, subject to some additions and deductions as mentioned in the IT Act, 1961. Since the Petitioner has been paying income tax on income computed under Section 115JB of the IT Act, 1961 as per the MAT rates of the respective financial year, the notified MAT rate for respective financial year shall be considered as effective tax rate for the purpose of grossing up of RoE for truing up of the tariff of the 2014-19 tariff period in terms of the provisions of the 2014 Tariff Regulations. Interest imposed on any additional income tax demand as per the Assessment Order of the Income Tax authorities shall be considered on actual payment. However, penalty (for default on the part of the Assessee) if any imposed shall not be taken into account for the purpose of grossing up of rate of return on equity. Any under-recovery or over-recovery of grossed up rate on return on equity after truing up, shall be recovered or refunded to beneficiaries or the long term transmission customers/ DICs as the case may be on year to year basis. 27. Accordingly, following effective tax rates based on notified MAT rates are considered for the purpose of grossing up of rate of return on equity:

Year	Notified MAT rates (inclusive of surcharge & cess)	Effective tax (in %)
2014-15	20.961	20.961
2015-16	21.342	21.342
2016-17	21.342	21.342
2017-18	21.342	21.342
2018-19	21.549	21.549

33. The same MAT rates as considered in order dated 27.4.2020 in Petition No.274/TT/2019 are considered for the purpose of grossing up of rate of RoE for truing up of the tariff for the 2014-19 tariff period in terms of the provisions of the 2014 Tariff Regulations, as under:

Year	Notified MAT rates (inclusive of surcharge & cess) (in %)	Base rate of RoE (in %)	Grossed up RoE (Base Rate/1-t) (in %)
2014-15	20.9605	15.50	19.610
2015-16	21.3416	15.50	19.705
2016-17	21.3416	15.50	19.705



Year	Notified MAT rates (inclusive of surcharge & cess) (in %)	Base rate of RoE (in %)	Grossed up RoE (Base Rate/1-t) (in %)
2017-18	21.3416	15.50	19.705
2018-19	21.5488	15.50	19.758

34. The Petitioner has claimed RoE for the 2014-19 tariff period after grossing up the RoE of 15.50% with effective tax rates (based on MAT rates) each year as per the 2014 Tariff Regulations. The RoE is trued up on the basis of the MAT rate applicable in the respective years and is allowed as follows:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Opening Equity	52.54	53.14	53.57	57.59	57.59
Additions	0.61	0.43	4.02	0.00	0.00
Closing Equity	53.14	53.57	57.59	57.59	57.59
Average Equity	52.84	53.36	55.58	57.59	57.59
Return on Equity (Base Rate) (%)	15.500	15.500	15.500	15.500	15.500
MAT Rate for respective year (%)	20.961	21.342	21.342	21.342	21.549
Rate of Return on Equity (%)	19.610	19.705	19.705	19.705	19.758
Return on Equity	10.36	10.51	10.95	11.35	11.38

35. RoE approved in order dated 22.9.2016 in Petition No.243/TT/2014, claimed by the Petitioner in the instant Petition and trued up RoE allowed in this order is as under:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 22.9.2016 in Petition No. 243/TT/2014	11.46	12.62	12.62	12.62	12.62
Claimed by the Petitioner in the instant Petition	10.37	10.52	10.95	11.35	11.38
Allowed after true-up in this order	10.36	10.51	10.95	11.35	11.38

Operation & Maintenance Expenses (O&M expenses)

36. The Petitioner has not claimed O&M Expenses for the transmission asset for the 2014-19 tariff period.

37. The Petitioner in Petition No.243/TT/2014 had claimed the O&M Expenses for the transmission asset as 7.5% of the capital cost in line with the order in Petition No. 139/2005 for NRULDC (communication portion) and escalated at the rate of 3.32% per annum from 2014-15 as under:



(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
O&M Expenses	14.61	16.57	17.13	17.69	18.23

38. The Commission in its order dated 22.9.2016 in Petition No. 243/TT/2014 did not allow O&M Expenses for the transmission asset for the 2014-19 tariff period and directed the Petitioner to submit the actual O&M Expenses at the time of truing up. The relevant portion of the order dated 22.9.2016 is extracted below:

“47. The petitioner has submitted that the O&M Expenses claimed are calculated as 7.5% of the capital cost in line with order in Petition No.139/2005 for NRULDC (Communication portion) and at the rate of 3.32% per annum for escalation from 2014-15 onwards. The O&M Expenses for 2014-15 to 2018-19 are not allowed in the absence of actual O&M Expenses. The petitioner’s claim will be considered at the time of truing up and accordingly the petitioner is directed to submit actual O&M Expenses for the said period at the time of truing up.”

39. BRPL has submitted that the claim of the Petitioner for 7.5% O&M Expenses was denied by the Commission in order dated 22.9.2016 in Petition No.243/TT/2014. The Special Protection Scheme (SPS) in the grid is part and parcel of the transmission system and sub-station equipment to protect the grid from any unwarranted incident and to maintain the stability. They are covered by the norms of O&M Expenses and accordingly no further O&M Expenses can be allowed. Thus, the claim of the Petitioner is liable to be rejected. It further submitted that the SPS is not standalone equipment in terms of Regulation 6(1) of the 2014 Tariff Regulations and accordingly determination of tariff of such equipment is not permissible. This equipment is in the nature of ACE for which no additional O&M norms are applicable. Accordingly, no further O&M Expenses should be allowed. In response, the Petitioner vide affidavit dated 14.8.2020 has submitted that the Commission in its order dated 22.9.2016 in Petition No 243/TT/2014 disallowed O&M Expenses for 2014-15 to 2018-19 due to absence of actual O&M Expenses and granted liberty to the Petitioner to file actual O&M Expenses at the time of truing up. Further in the present Petition, no O&M



Expenses are claimed for the 2014-19 period. As no O&M expenses are being claimed for the 2014-19 tariff period, the contentions raised by BRPL regarding O&M Expenses for 2014-19 tariff period are irrelevant in this case. The contention of BRPL pertaining to Special Protection Scheme in the grid not being a standalone asset in terms of Regulation 6(1) of the 2014 Tariff Regulations is baseless and holds no merit.

40. Since the Petitioner has neither submitted nor claimed the actual O&M Expenses for the 2014-19 tariff period, therefore no O&M Expenses are approved for the transmission asset for the 2014-19 tariff period.

Interest on Working Capital (IWC)

41. The IWC has been worked out as per the methodology provided in Regulation 28 of the 2014 Tariff Regulations and allowed as under:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
O & M Expenses	0.00	0.00	0.00	0.00	0.00
Maintenance Spares	0.00	0.00	0.00	0.00	0.00
Receivables	5.72	5.51	5.47	5.34	5.13
Total Working Capital	5.72	5.51	5.47	5.34	5.13
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
Interest on working capital	0.77	0.74	0.74	0.72	0.69

42. Accordingly, IWC approved in order dated 22.9.2016 in Petition No.243/TT/2014, claimed by the Petitioner in the instant Petition and true up IWC allowed in this order are shown in the table as under:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 22.9.2016 in Petition No.243/TT/2014	0.85	0.91	0.88	0.85	0.82
Claimed by the Petitioner in the Petition	0.77	0.74	0.74	0.72	0.69
Allowed after true-up in this order	0.77	0.74	0.74	0.72	0.69



Approved Annual Fixed Charges of the 2014-19 Tariff Period

43. The trued up Annual Fixed Charges for the transmission asset for the 2014-19 tariff period are as under:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	11.15	11.26	11.73	12.15	12.15
Interest on Loan	12.07	10.54	9.38	7.83	6.56
Return on Equity	10.36	10.51	10.95	11.35	11.38
Interest on Working Capital	0.77	0.74	0.74	0.72	0.69
O & M Expenses	0.00	0.00	0.00	0.00	0.00
Total	34.35	33.06	32.79	32.05	30.78

44. Accordingly, the Annual Transmission Charges approved in order dated 22.9.2016 in Petition No. 243/TT/2014, as claimed by the Petitioner in this petition and approved after truing up in the instant order is shown in the table as under:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 22.9.2016 in Petition No. 243/TT/2014	38.00	40.55	39.12	37.70	36.27
Claimed by the Petitioner in the instant Petition	34.36	33.06	32.80	32.05	30.78
Allowed after true-up in this order	34.35	33.06	32.79	32.05	30.78

DETERMINATION OF ANNUAL FIXED CHARGES FOR THE 2019-24 TARIFF PERIOD

45. The Petitioner has claimed the following transmission charges for the 2019-24 tariff period in respect of the transmission asset:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	12.15	12.15	12.15	12.15	12.15
Interest on Loan	5.70	4.70	3.73	2.76	1.76
Return on Equity	10.81	10.81	10.81	10.81	10.81
Interest on Working Capital	0.60	0.59	0.57	0.56	0.54
O&M Expenses	3.84	3.84	3.84	3.84	3.84
Total	33.10	32.09	31.10	30.12	29.10



46. The Petitioner has claimed the following IWC for the 2019-24 tariff period in respect of the transmission asset:

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
O&M Expenses	0.32	0.32	0.32	0.32	0.32
Maintenance Spares	0.58	0.58	0.58	0.58	0.58
Receivables	4.07	3.96	3.83	3.71	3.58
Total Working Capital	4.97	4.86	4.73	4.61	4.48
Rate of Interest (%)	12.05	12.05	12.05	12.05	12.05
Interest on Working Capital	0.60	0.59	0.57	0.56	0.54

Capital Cost

47. Regulation 19 of the 2019 Tariff Regulations provides as under:

“19. Capital Cost:(1) *The Capital cost of the generating station or the transmission system, as the case may be, as determined by the Commission after prudence check in accordance with these regulations shall form the basis for 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) *Any gain or loss on account of foreign exchange risk variation pertaining to the loan amount availed during the construction period;*
- (d) *Interest during construction and incidental expenditure during construction as computed in accordance with these regulations;*
- (e) *Capitalised initial spares subject to the ceiling rates in accordance with these regulations;*
- (f) *Expenditure on account of additional capitalization and de-capitalisation determined in accordance with these regulations;*
- (g) *Adjustment of revenue due to sale of infirm power in excess of fuel cost prior to the date of commercial operation as specified under Regulation 7 of these regulations;*
- (h) *Adjustment of revenue earned by the transmission licensee by using the assets before the date of commercial operation;*
- (i) *Capital expenditure on account of ash disposal and utilization including handling and transportation facility;*
- (j) *Capital expenditure incurred towards railway infrastructure and its augmentation for transportation of coal upto the receiving end of the generating station but does not include the transportation cost and any other appurtenant cost paid to the railway;*



- (k) Capital expenditure on account of biomass handling equipment and facilities, for co-firing;*
- (l) Capital expenditure on account of emission control system necessary to meet the revised emission standards and sewage treatment plant;*
- (m) Expenditure on account of fulfilment of any conditions for obtaining environment clearance for the project;*
- (n) Expenditure on account of change in law and force majeure events; and*
- (o) Capital cost incurred or projected to be incurred by a thermal generating station, on account of implementation of the norms under Perform, Achieve and Trade (PAT) scheme of Government of India shall be considered by the Commission subject to sharing of benefits accrued under the PAT scheme with the beneficiaries.*

(3) The Capital cost of an existing project shall include the following:

- (a) Capital cost admitted by the Commission prior to 1.4.2019 duly trued up by excluding liability, if any, as on 1.4.2019;*
- (b) Additional capitalization and de-capitalization for the respective year of tariff as determined in accordance with these regulations;*
- (c) Capital expenditure on account of ash disposal and utilization including handling and transportation facility;*
- (d) Capital expenditure on account of ash disposal and utilization including handling and transportation facility;*
- (e) Capital expenditure incurred towards railway infrastructure and its augmentation for transportation of coal up to the receiving end of generating station but does not include the transportation cost and any other appurtenant cost paid to the railway; and*
- (f) Capital cost incurred or projected to be incurred by a thermal generating station, on account of implementation of the norms under Perform, Achieve and Trade (PAT) scheme of Government of India shall be considered by the Commission subject to sharing of benefits accrued under the PAT scheme with the beneficiaries.”*

(4) The Capital Cost in case of existing or new hydro generating station shall also include:

- (a) cost of approved rehabilitation and resettlement (R&R) plan of the project inconformity with National R&R Policy and R&R package as approved; and*
- (b) cost of the developer’s 10% contribution towards Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY) and Deendayal Upadhyaya Gram Jyoti Yojana (DDUGJY) project in the affected area.*

(5) The following shall be excluded from the Capital Cost of the existing and new projects:

- (a) The assets forming part of the project, but not in use, as declared in the tariff petition;*
- (b) De-capitalised Assets after the date of commercial operation on account of replacement or removal on account of obsolescence or shifting from one project to another project:*

Provided that in case replacement of transmission asset is recommended by Regional Power Committee, such asset shall be decapitalised only after its redeployment;



Provided further that unless shifting of an asset from one project to another is of permanent nature, there shall be no de-capitalization of the concerned assets.

- (c) In case of hydro generating stations, any expenditure incurred or committed to be incurred by a project developer for getting the project site allotted by the State Government by following a transparent process;*
(d) Proportionate cost of land of the existing project which is being used for generating power from generating station based on renewable energy; and
(e) Any grant received from the Central or State Government or any statutory body or authority for the execution of the project which does not carry any liability of repayment.”

48. The Petitioner has claimed capital cost of ₹191.98 lakh as on 31.3.2019 for the transmission asset. The same has been worked out by the Commission in accordance with the 2019 Tariff Regulations and has been considered as the opening capital cost as on 1.4.2019 for determination of tariff.

Additional Capital Expenditure (ACE)

49. The Petitioner has not claimed ACE for the transmission asset during the 2019-24 tariff period. The Petitioner has claimed the capital cost for the transmission asset as on 31.3.2024 as under:

(₹ in lakh)

Approved Apportioned Capital Cost	Total Capital Cost as on 31.3.2019	Estimated ACE	Total Capital Cost as on 31.3.2024
		2019-24	
242.72	191.98	0	191.98

50. Accordingly, capital cost as on 31.3.2024 as approved by the Commission for the transmission asset is as under:

(₹ in lakh)

Admitted Capital Cost as on 1.4.2019	Admitted ACE	Total Capital Cost as on 31.3.2024
	2019-24	
191.98	0	191.98

The total capital cost of ₹191.98 lakh as on 31.3.2024 is within the approved capital cost of ₹242.72 lakh.



Debt-Equity Ratio

51. Regulation 18 of the 2019 Tariff Regulations provides as under:

“18. Debt-Equity Ratio: (1) For new projects, the debt-equity ratio of 70:30 as on date of commercial operation shall be considered. 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.

(2) The generating company or the transmission licensee, as the case may be, shall submit the resolution of the Board of the company or approval of the competent authority in other cases regarding infusion of funds from internal resources in support of the utilization made or proposed to be made to meet the capital expenditure of the generating station or the transmission system including communication system, as the case may be.

(3) In case of the generating station and the transmission system including communication system declared under commercial operation prior to 1.4.2019, debt: equity ratio allowed by the Commission for determination of tariff for the period ending 31.3.2019 shall be considered:

Provided that in case of a generating station or a transmission system including communication system which has completed its useful life as on or after 1.4.2019, if the equity actually deployed as on 1.4.2019 is more than 30% of the Capital Cost, equity in excess of 30% shall not be taken into account for tariff computation;

Provided further that in case of projects owned by Damodar Valley Corporation, the debt: equity ratio shall be governed as per sub-clause(ii) of clause (2) of Regulation 72 of these regulations.

(4) In case of the generating station and the transmission system including communication system declared under commercial operation prior to 1.4.2019, but where debt: equity ratio has not been determined by the Commission for determination of tariff for the period ending 31.3.2019, the Commission shall approve the debt: equity ratio in accordance with clause (1) of this Regulation.

(5) Any expenditure incurred or projected to be incurred on or after 1.4.2019 as may be admitted by the Commission as ACE 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.”



52. The debt and equity considered for the purpose of tariff determination in respect of transmission asset for the 2019-24 tariff period is as under:

Particulars	(₹ in lakh)			
	Capital Cost as on 1.4.2019 (₹ in lakh)	%	Capital Cost as on 31.3.2024 (₹ in lakh)	%
Debt	134.40	70.00	134.40	70.00
Equity	57.58	30.00	57.58	30.00
Total	191.98	100.00	191.98	100.00

Depreciation

53. Regulation 33(1), (2) and (5) of the 2019 Tariff Regulations provide as under:

“33. Depreciation: (1) Depreciation shall be computed from the date of commercial operation of a generating station or unit thereof or a transmission project or element thereof including communication project. In case of the tariff of all the units of a generating station or all elements of a transmission project including communication project 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 project taking into consideration the depreciation of individual units:

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 project, 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 a transmission project, weighted average life for the generating station of the transmission project 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).....

(4).....

(5) Depreciation shall be calculated annually based on Straight Line Method and at rates specified in Appendix-I 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.

.....”

54. UPPCL has raised the similar issue of depreciation which has been dealt with in 2014-19 tariff period in paragraph **Error! Reference source not found.** of this order. It has submitted that considering 90% depreciable value of asset and 15 years useful



life, the rate of depreciation applicable to the Project should be 6.00% instead of 6.33%. Therefore, UPPCL has requested the Commission to direct the Petitioner to recalculate the depreciation on the basis of rate of depreciation as 6.00% instead of 6.33%. In response, Petitioner has submitted that depreciation has been calculated annually based on Straight Line Method and at rates specified in Appendix-I of the 2019 Tariff Regulations. For the purpose of calculation for tariff, the transmission asset has been considered as communication equipment. Rate of Depreciation for communication equipment as per the 2019 Tariff Regulations is 6.33% and the same has been considered. In view of the above, the contentions of UPPCL that the depreciation should be calculated at 6% is without merit.

55. We have considered the submissions of the Petitioner and UPPCL. The depreciation has been worked out considering the admitted capital expenditure as on 31.3.2019 and accumulated depreciation up to 31.3.2019. The calculation for rate of depreciation is given in Annexure II of this order. The depreciation allowed for transmission asset for the 2019-24 tariff period is as under:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Gross Block	191.98	191.98	191.98	191.98	191.98
ACE	0.00	0.00	0.00	0.00	0.00
Closing Gross Block	191.98	191.98	191.98	191.98	191.98
Average Gross Block	191.98	191.98	191.98	191.98	191.98
Rate of Depreciation (%)	6.33	6.33	6.33	6.33	6.33
Balance useful life of the asset	10	9	8	7	6
Elapsed life at the beginning of the year	5	6	7	8	9
Aggregate Depreciable Value	172.78	172.78	172.78	172.78	172.78
Depreciation during the year	12.15	12.15	12.15	12.15	12.15
Aggregate Cumulative Depreciation	70.59	82.74	94.90	107.05	119.20
Remaining Aggregate Depreciable Value	102.19	90.04	77.89	65.73	53.58

Interest on Loan (IoL)

56. Regulation 32 of the 2019 Tariff Regulations provides that:



“32. Interest on loan capital: (1) *The loans arrived at in the manner indicated in regulation 18 of these regulations shall be considered as gross normative loan for calculation of interest on loan.*

(2) *The normative loan outstanding as on 1.4.2019 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2019 from the gross normative loan.*

(3) *The repayment for each of the year of the tariff period 2019-24 shall be deemed to be equal to the depreciation allowed for the corresponding year/period. In case of de-capitalization 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 de-capitalisation 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.*

(7) *The changes to the terms and conditions of the loans shall be reflected from the date of such re-financing.”*

57. UPPCL has raised the similar issue of IoL which has been dealt with in 2014-19 tariff period in paragraph 19 of this order. It has submitted that the Petitioner be directed to submit the figures of normative IoL based on the correct figures of cumulative repayments of normative loan and consequent figures of opening value of normative loan. In response, the Petitioner has submitted that yearly repayment of loan considered by it is equal to the depreciation during the year as per Regulation 32(3) of the 2019 Tariff Regulations. Accordingly, IoL has been calculated considering repayment of loan in line with the 2019 Tariff Regulations. Considering the same, the



detailed calculation of gross normative loan-opening, cumulative repayment upto previous year and net normative loan-opening for respective years is provided in Form-9E for 2019-24 tariff block in the instant Petition.

58. We have considered the submissions of the Petitioner and UPPCL. The weighted average rate of IoL has been considered on the basis of rate prevailing as on 1.4.2019. The Petitioner has prayed that the change in interest rate due to floating rate of interest applicable, if any, during the 2019-24 tariff period will be adjusted. Accordingly, the floating rate of interest, if any, shall be considered at the time of true up. Therefore, the IoL has been allowed in accordance with Regulation 32 of the 2019 Tariff Regulations. The IoL allowed for the transmission asset is as under:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Gross Normative Loan	134.39	134.39	134.39	134.39	134.39
Cumulative Repayments upto Previous Year	58.44	70.59	82.74	94.90	107.05
Net Loan-Opening	75.95	63.79	51.64	39.49	27.34
Additions	0.00	0.00	0.00	0.00	0.00
Repayment during the year	12.15	12.15	12.15	12.15	12.15
Net Loan-Closing	63.79	51.64	39.49	27.34	15.18
Average Loan	69.87	57.72	45.57	33.41	21.26
Weighted Average Rate of Interest on Loan (%)	8.156	8.141	8.188	8.264	8.267
Interest on Loan	5.70	4.70	3.73	2.76	1.76

Return on Equity (RoE)

59. Regulation 30 and Regulation 31 of the 2019 Tariff Regulations provide as under:

“30. Return on Equity:(1) Return on equity shall be computed in rupee terms, on the equity base determined in accordance with Regulation 18 of these regulations.

(2) Return on equity shall be computed at the base rate of 15.50% for thermal generating station, transmission system including communication system and run-of 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 return on equity in respect of additional capitalization after cut-off date beyond the original scope excluding additional capitalization due to Change in Law, shall be computed at the weighted average rate of interest on actual loan portfolio of the generating station or the transmission system;

Provided further that:

i. In case of a new project, the rate of return on equity shall be reduced by 1.00% 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) or Free Governor Mode Operation (FGMO), data telemetry, communication system up to load dispatch centre or protection system based on the report submitted by the respective RLDC;

ii. in case of existing generating station, as and when any of the requirements under (i) above of this Regulation are found lacking based on the report submitted by the concerned RLDC, rate of return on equity shall be reduced by 1.00% for the period for which the deficiency continues;

iii. in case of a thermal generating station, with effect from 1.4.2020:

a) rate of return on equity shall be reduced by 0.25% in case of failure to achieve the ramp rate of 1% per minute;

b) an additional rate of return on equity of 0.25% shall be allowed for every incremental ramp rate of 1% per minute achieved over and above the ramp rate of 1% per minute, subject to ceiling of additional rate of return on equity of 1.00%:

Provided that the detailed guidelines in this regard shall be issued by National Load Dispatch Centre by 30.6.2019.”

“31. Tax on Return on Equity:*(1) The base rate of return on equity as allowed by the Commission under Regulation 30 of these regulations 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 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 paid on income from other businesses including deferred tax liability (i.e. income from business other than business of generation or transmission, as the case may be) shall be excluded 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.



Illustration-

(i) In case of a generating company or a transmission licensee paying Minimum Alternate Tax (MAT) @ 21.55% including surcharge and cess:

$$\text{Rate of return on equity} = 15.50 / (1 - 0.2155) = 19.758\%$$

(ii) In case of a generating company or a transmission licensee paying normal corporate tax including surcharge and cess:

(a) Estimated Gross Income from generation or transmission business for FY 2019-20 is Rs 1,000 crore;

(b) Estimated Advance Tax for the year on above is Rs 240 crore;

(c) Effective Tax Rate for the year 2019-20 = Rs 240 Crore / Rs 1000 Crore = 24%;

(d) Rate of return on equity = $15.50 / (1 - 0.24) = 20.395\%$.

(3) The generating company or the transmission licensee, as the case may be, shall true up the grossed up rate of return on equity at the end of every financial year based on actual tax paid together with any additional tax demand including interest thereon, duly adjusted for any refund of tax including interest received from the income tax authorities pertaining to the tariff period 2019-24 on actual gross income of any financial year. However, penalty, if any, arising on account of delay in deposit or short deposit of tax amount shall not be claimed by the generating company or the transmission licensee, as the case may be. Any under-recovery or over-recovery of grossed up rate on return on equity after truing up, shall be recovered or refunded to beneficiaries or the long term customers, as the case may be, on year to year basis.”

60. BRPL in its reply dated 17.7.2020 has contended that the Petitioner cannot unilaterally undertake true up of the grossed-up rate of RoE at the end of every financial year based on actual tax paid as per Regulation 31(3) of 2019 Tariff Regulations. This statutory function cannot be exercised unilaterally but required to be conducted in most impartial manner by summoning all the beneficiaries wherein all the documents related to tax payment be produced including the actual tax payment by the Petitioner only on the transmission business in the particular region. It further requested the Commission to lay down procedure for truing up by the Petitioner. In response, the Petitioner vide affidavit dated 14.8.2020 has requested that the Commission may allow the Petitioner to recover the shortfall or refund the excess AFC on account of RoE directly without making any application before the Commission.



61. UPPCL has queried if the MAT rate of 17.472% considered by the Petitioner is approved by Income Tax Authorities. In response, the Petitioner *vide* affidavit dated 24.7.2020 has submitted that subsequent to The Taxation Laws (Amendment) Ordinance, 2019 published in the Gazette dt. 20.9.2019, the ROE has been calculated @ 18.782% after grossing up the ROE with revised MAT rate of 17.472% (Base Rate 15% + Surcharge 12% + Cess 4%) based on the formula given at Regulation 31(2) of the 2019 Tariff Regulations, 2019 for 2019-24 period. Therefore, the MAT rate of 17.472% is in-line with the Ordinance issued by the Income tax Authorities. The Petitioner has further submitted that the per Regulation 31(3) of the above regulation, the grossed up rate of ROE at the end of every financial year shall be trued up based on actual tax paid together with any additional tax demand including interest thereon duly adjusted for any refund of tax including interest received from the IT authorities pertaining to the 2019-24 tariff period on actual gross income of any financial year. Further, the Petitioner has submitted that MAT rate is applicable to the Petitioner's company.

62. We have considered the submissions of the Petitioner, BRPL and UPPCL. Accordingly, the MAT rate applicable in 2019-20 has been considered for the purpose of RoE, which shall be trued up with actual tax rate in accordance with Regulation 31(3) of the 2019 Tariff Regulations. RoE allowed for the transmission asset is as under:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Equity	57.59	57.59	57.59	57.59	57.59
Additions	0.00	0.00	0.00	0.00	0.00
Closing Equity	57.59	57.59	57.59	57.59	57.59
Average Equity	57.59	57.59	57.59	57.59	57.59
Return on Equity (Base Rate) (%)	15.500	15.500	15.500	15.500	15.500
MAT Rate for respective year (%)	17.472	17.472	17.472	17.472	17.472
Rate of Return on Equity (%)	18.782	18.782	18.782	18.782	18.782



Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Return on Equity	10.82	10.82	10.82	10.82	10.82

Operation & Maintenance Expenses (O&M Expenses)

63. The Petitioner has claimed O&M Expenses for the transmission assets, which are Special Protection Scheme (SPS), for the 2019-24 tariff period @2% as per the O&M norms specified for communication system in Regulation 35(4) of the 2019 Tariff Regulations as under:

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Normative Rate of O&M expenses as per 2019 Tariff Regulations (in %)	2.00	2.00	2.00	2.00	2.00
Original project cost	191.98	191.98	191.98	191.98	191.98
O&M Expenses claimed by Petitioner in the instant Petition	3.84	3.84	3.84	3.84	3.84

64. The norms specified for communication system under Regulation 35(4) of the 2019 Tariff Regulations provide as under:

“35. Operation and Maintenance Expenses:

...

(4) Communication system: The operation and maintenance expenses for the communication system shall be worked out at 2.0% of the original project cost related to such communication system. The transmission licensee shall submit the actual operation and maintenance expenses for truing up.”

65. We have considered the Petitioner’s claim. The Petitioner has claimed O&M Expenses for the transmission assets, which is SPS, as part of the sub-station. Separate O&M norms are specified for sub-stations in the 2019 Tariff Regulations and accordingly O&M Expenses will be allowed/ have already been allowed for the sub-stations in which the instant SPS are placed, the instant SPS are not eligible for separate O&M Expenses. Therefore, no O&M Expenses are allowed for the transmission asset for the 2019-24 tariff period.



Interest on Working Capital (IWC)

66. Regulation 34(1)(c), 34(3), 34(4) and Regulation 3(7) of the 2019 Tariff Regulations provide as under:

“34. Interest on Working Capital

(1)...

(c) For Hydro Generating Station (including Pumped Storage Hydro Generating Station) and Transmission System:

- i. Receivables equivalent to 45 days of fixed cost;*
- ii. Maintenance spares @ 15% of operation and maintenance expenses including security expenses; and*
- iii. Operation and maintenance expenses, including security 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 1.4.2019 or as on 1st April of the year during the tariff period 2019-24 in which the generating station or a unit thereof or the transmission system including communication system or element thereof, as the case may be, is declared under commercial operation, whichever is later:

Provided that in case of truing-up, the rate of interest on working capital shall be considered at bank rate as on 1st April of each of the financial year during the tariff period 2019-24.

(4) Interest on working capital shall be payable on normative basis notwithstanding that the generating company or the transmission licensee has not taken loan for working capital from any outside agency.”

“3. Definitions ...

(7) ‘Bank Rate’ means the one year marginal cost of lending rate (MCLR) of the State Bank of India issued from time to time plus 350 basis points;”

67. The Petitioner has submitted that it has claimed IWC for the 2019-24 tariff period considering the SBI Base Rate plus 350 basis points as on 1.4.2019. The Petitioner has considered the rate of IWC as 12.05%. The IWC is worked out in accordance with Regulation 34 of the 2019 Tariff Regulations. The rate of IWC considered is 12.05% (SBI 1-year MCLR applicable as on 1.4.2019 of 8.55% plus 350 basis points) for 2019-20, whereas RoI for 2020-21 onwards has been considered as 11.25% (SBI 1-year MCLR applicable as on 1.4.2020 of 7.75% plus 350 basis points).



The components of the working capital and interest thereon allowed for the transmission assets for the 2019-24 tariff period are as under:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Maintenance Spares	0.00	0.00	0.00	0.00	0.00
Receivables	3.58	3.46	3.34	3.22	3.08
Total Working Capital	3.58	3.46	3.34	3.22	3.08
Rate of Interest (%)	12.05	11.25	11.25	11.25	11.25
Interest on working capital	0.43	0.39	0.38	0.36	0.35

Annual Fixed Charges of the 2019-24 Tariff Period

68. The transmission charges allowed for the transmission asset for the 2019-24 tariff period is as under:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	12.15	12.15	12.15	12.15	12.15
Interest on Loan	5.70	4.70	3.73	2.76	1.76
Return on Equity	10.82	10.82	10.82	10.82	10.82
Interest on Working Capital	0.43	0.39	0.38	0.36	0.35
O & M Expenses	0.00	0.00	0.00	0.00	0.00
Total	29.10	28.06	27.08	26.09	25.07

Filing Fee and the Publication Expenses

69. The Petitioner has sought reimbursement of fee paid by it for filing the Petition and publication expenses, in terms of Regulation 70 (1) of the 2019 Tariff Regulations.

70. BRPL has contended that though the Commission can allow filing fee and publication expenses at its discretion under Regulation 70(1) of the 2019 Tariff Regulations, but the exercise of such discretion is a judicial discretion in the adjudication of tariff for which no justification has been filed by the Petitioner. BRPL also referred to the Commission's order dated 11.9.2008 in Petition No.129 of 2005 where it declined the claim of Central Power Sector Undertakings for allowing the reimbursement of the application filing fee. In response, the Petitioner has submitted that it has requested for reimbursement of expenditure by the beneficiaries towards



Petition filing fee and publication expenses in terms of Regulation 70(1) of the 2019 Tariff Regulations. Further, the Petitioner also placed reliance on Commission's order dated 28.3.2016 in Petition No.137/TT/2015 where it allowed the recovery of petition filing fee and expenditure for publication of notices from beneficiaries on *pro-rata* basis.

71. We have considered the submissions of the Petitioner and BRPL. The Petitioner has sought reimbursement of fee paid by it for filing the Petition and publication expenses. The Petitioner shall be entitled for reimbursement of the filing fees and publication expenses in connection with the present Petition, directly from the beneficiaries on *pro-rata* basis in accordance with Regulation 70(1) of the 2019 Tariff Regulations.

Licence Fee & RLDC Fees and Charges

72. The Petitioner has requested to allow it to bill and recover license fee and RLDC fees and charges, separately from the Respondents. UPPCL has submitted that the license fee is the onus of the Petitioner. We have considered the submission by UPPCL. In response, the Petitioner submitted that Regulation 70(3) and (4) of 2019 Tariff Regulations authorizes to bill and recover Licensee fee and RLDC fees and charges, separately from the beneficiaries and License fee is to be reimbursed directly by beneficiaries as per manner specified in 2019 Tariff Regulations.

73. We have considered the submissions of the Petitioner and UPPCL. The Petitioner shall be entitled for reimbursement of licence fee and for recovery of RLDC fee and charges in accordance with Regulation 70(4) and Regulation 70(3) respectively of the 2019 Tariff Regulations for the 2019-24 tariff period.



Goods and Services Tax

74. The Petitioner has submitted that, if GST is levied at any rate and at any point of time in future on charges of transmission of electricity, the same shall be borne and additionally paid by the beneficiaries to the Petitioner and the same shall be charged and billed separately by the Petitioner. Further additional taxes, if any, are to be paid by the Petitioner on account of demand from Government/ Statutory Authorities, the same may be allowed to be recovered from the beneficiaries.

75. BRPL has submitted that the demand of the Petitioner is premature and need not be considered at this juncture. In response, the Petitioner has submitted that currently transmission of electricity by an electric transmission utility is exempt from GST. Hence, the transmission charges currently charged are exclusive of GST. Further, if GST is levied at any rate and at any point of time in future, the same shall be borne and additionally paid by the beneficiaries to the Petitioner and the same shall be charged and billed separately.

76. We have considered the submissions of the Petitioner and BRPL. Since, GST is not levied on transmission service at present, we are of the view that Petitioner's prayer is premature.

Security Expenses

77. The Petitioner has submitted that security expenses for the transmission asset is not claimed in the instant Petition and the Petitioner would file a separate petition for claiming the overall security expenses and the consequential IWC. The Petitioner has requested to consider the actual security expenses incurred during 2018-19 for claiming estimated security expenses for 2019-20 which shall be subject to true up at the end of the year based on the actuals. The Petitioner has submitted that similar



petition for security expenses for 2020-21, 2021-22, 2022-23 and 2023-24 shall be filed on an yearly basis on the basis of the actual expenses of previous year subject to true up at the end of the year on actual expenses. The Petitioner has submitted that the difference, if any, between the estimated security expenses and actual security expenses as the audited accounts may be allowed to be recovered from the beneficiaries on an yearly basis.

78. BRPL has submitted that the approach adopted by the Petitioner towards claim of security expenses does not warrant the need for IWC as the same is claimed in advance. The Petitioner, in response has submitted that the expenses are not claimed in the instant Petition and shall be claimed separately in a separate petition along with other assets.

79. We have considered the submissions of the Petitioner and BRPL. We are of the view that the Petitioner should claim security expenses for all the transmission assets in one petition. It is noticed that the Petitioner has already filed the Petition No.260/MP/2020 claiming consolidated security expenses on projected basis for the 2019-24 tariff period on the basis of actual security expenses incurred in 2018-19. Therefore, security expenses will be dealt with in Petition No.260/MP/2020 in accordance with the applicable provisions of the 2019 Tariff Regulations.

Capital Spares

80. The Petitioner has sought reimbursement of capital spares at the end of tariff block. The Petitioner's claim, if any, shall be dealt with in accordance with the provisions of the 2019 Tariff Regulations.



Sharing of Transmission Charges

81. 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, or the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020, as applicable, as provided in Regulation 43 of 2014 Tariff Regulations for the 2014-19 tariff period and Regulation 57 of the 2019 Tariff Regulations for the 2019-24 tariff period.

82. To summarise, the trued up Annual Fixed Charges allowed for the transmission asset in the 2014-19 tariff period is as under:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Annual Fixed Charges	34.35	33.06	32.79	32.05	30.78

The Annual Fixed Charges allowed for the transmission asset for the 2019-24 tariff period in this order is as under:

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Annual Fixed Charges	29.10	28.06	27.08	26.09	25.07

83. This order disposes of Petition No. 114/TT/2020.

**Sd/
(Arun Goyal)
Member**

**Sd/
(I. S. Jha)
Member**



Annexure-I

2014-19 Capital Expenditure	Admitted Capital Cost as on 1.4.2014 (₹ in lakh)	ACE (₹ in lakh)				Admitted Capital Cost as on 31.3.2019 (₹ in lakh)	Rate of Depreciation as per Regulations	Annual Depreciation as per Regulations (₹ in lakh)				
		2014-15	2015-16	2016-17	Total			2014-15	2015-16	2016-17	2017-18	2018-19
PLCC	175.12	2.02	1.43	13.41	16.86	191.98	6.33%	11.15	11.26	11.73	12.15	12.15
Total	175.12	2.02	1.43	13.41	16.86	191.98		11.15	11.26	11.73	12.15	12.15
							Average Gross Block (₹ in lakh)	176.13	177.86	185.28	191.98	191.98
							Weighted Average Rate of Depreciation	6.33%	6.33%	6.33%	6.33%	6.33%

Annexure-II

2019-24 Capital Expenditure	Admitted Capital Cost as on 1.4.2019 (₹ in lakh)	Projected ACE (₹ in lakh)		Admitted Capital Cost as on 31.3.2024 (₹ in lakh)	Rate of Depreciation as per Regulations	Annual Depreciation as per Regulations (₹ in lakh)					
		2019-20	Total			2019-20	2020-21	2021-22	2022-23	2023-24	
PLCC	191.98	-	-	191.98	6.33%	12.15	12.15	12.15	12.15	12.15	
Total	191.98	-	-	191.98		12.15	12.15	12.15	12.15	12.15	
						Average Gross Block (₹ in lakh)	191.98	191.98	191.98	191.98	191.98
						Weighted Average Rate of Depreciation	6.33%	6.33%	6.33%	6.33%	6.33%

