

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 313/TT/2019**

**Coram:**

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

**Date of Order: 31.03.2021**

**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 2014-19 period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 and determination of transmission tariff for 2019-24 period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 of Additional Converter Transformer (Spare) for Rihand-Dadri Bi-pole in Northern Region.

**And in the matter of**

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

**.... Petitioner**

**Versus**

1. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,  
Vidyut Bhawan, Vidyut Marg,  
Jaipur-302 005.
2. Ajmer Vidyut Vitran Nigam Ltd.,  
132 kV, GSS RVPNL Sub-Station Building, Caligiri Road,  
Malviya Nagar,  
Jaipur-302 017 (Rajasthan).
3. Jaipur Vidyut Vitran Nigam Ltd.,  
132 kV, GSS RVPNL Sub-Station Building, Caligiri Road,  
Malviya Nagar,  
Jaipur-302 017 (Rajasthan).
4. Jodhpur Vidyut Vitran Nigam Ltd.,  
132 kV, GSS RVPNL Sub-Station Building, Caligiri Road,  
Malviya Nagar  
Jaipur-302 017 (Rajasthan).
5. Himachal Pradesh State Electricity Board,  
Vidyut Bhawan, Kumar House Complex Building II,  
Shimla-171 004.



6. Punjab State Electricity Board,  
Thermal Shed TIA, Near 22 Phatak,  
Patiala-147 001.
7. Haryana Power Purchase Centre,  
Shakti Bhawan, Sector-6,  
Panchkula-134 109.
8. Power Development Deptt.,  
Govt. of Jammu & Kashmir,  
Mini Secretariat, Jammu.
9. Uttar Pradesh Power Corporation Ltd.,  
(Formerly Uttar Pradesh State Electricity Board),  
Shakti Bhawan, 14, Ashok Marg,  
Lucknow-226 001.
10. Delhi Transco Ltd.,  
Shakti Sadan, Kotla Road,  
New Delhi-110 002.
11. BSES Yamuna Power Ltd.,  
B Block, Shakti Kiran Bldg.,  
(Near Karkardooma Court),  
Karkardooma, 2<sup>nd</sup> Floor,  
Delhi-110092.
12. BSES Rajdhani Power Ltd.,  
BSES Bhawan, Behind Nehru Place,  
New Delhi-110 019.
13. Tata Power Delhi Distribution Ltd.,  
33 kV Substation Building Hudson Lane,  
Kingsway Camp,  
North Delhi-110 009.
14. Chandigarh Administration,  
Sector -9, Chandigarh.
15. Uttarakhand Power Corporation Ltd.,  
Urja Bhawan, Kanwali Road,  
Dehradun.
16. North Central Railway,  
Allahabad.
17. New Delhi Municipal Council,  
Palika Kendra, Sansad Marg,  
New Delhi-110 002.

**...Respondents**



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

**For Respondent:** Shri R. B. Sharma, Advocate, BRPL  
Shri Mohit Mudgal, Advocate, BYPL

### ORDER

The present petition has been filed by the Petitioner, Power Grid Corporation of India Ltd., a deemed transmission licensee, for truing up of tariff of the 2014-19 tariff period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as “the 2014 Tariff Regulations”) and for determination of tariff of the 2019-24 tariff period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (hereinafter referred to as “the 2019 Tariff Regulations”) of Additional Converter Transformer (Spare) for Rihand-Dadri Bi-pole in Northern Region (hereinafter referred as “the transmission asset”).

2. The Petitioner has made the following prayers:

- “1) Approve the trued-up Transmission Tariff for the tariff block 2014-19 and transmission tariff for 2019-24 block for the assets covered under this petition, as per para 8 and 9 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 Regulations 2014 and Tariff Regulations 2019 as per para 9.0 and 10 above for respective tariff block.*

*Further it is submitted that deferred tax liability before 01.04.2009 shall be recoverable from the beneficiaries or long term customers /DIC as the case may be, as and when the same is materialized as per regulation 49 of 2014 and regulation 67 of 2019 tariff regulation. The petitioner may be allow to recover the deferred tax liability materialized directly without making any application before the commission as provided in the regulation.*

- 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 file a separate petition before the Commission for claiming the overall security expenses and consequential IOWC on that security expenses as mentioned at para 9.5 above.
- 7) Allow the petitioner to claim the capital spares 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 withdrawn from negative list at any time 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 the 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 follows:

(a) The Investment Approval (IA) for the transmission project was discussed in the 114<sup>th</sup> Meeting of NRPC held on 15.1.1998 wherein it was decided that the Petitioner would procure a separate converter transformer at an estimated cost of about ₹2000 lakh for installation at the Rihand-Dadri HVDC bi-pole system. The transmission asset was put under commercial operation on 1.10.2000.

(b) The Commission vide its order dated 15.11.2010 in Petition No. 111/2010 determined the tariff for the 2009-14 tariff period in terms of provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 (hereinafter referred to as “the 2009 Tariff Regulations”) based on admitted capital cost of ₹1840.94 lakh as of 31.3.2009. The Commission vide order dated 18.4.2016 in Petition No. 180/TT/2014 trued-up the tariff of the 2009-14 with admitted cost of ₹1840.94 lakh as on 31.3.2014. The trued up tariff allowed for the tariff period 2009-14 is as under:

	(₹ in lakh)				
<b>Particulars</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>
Depreciation	97.20	97.20	97.20	97.20	50.98
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	343.78	356.37	356.72	356.72	361.01
Interest on Working Capital	9.19	9.45	9.46	9.46	8.59
O&M Expenses	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>450.17</b>	<b>463.02</b>	<b>463.38</b>	<b>463.38</b>	<b>420.57</b>



(c) The Petitioner had not claimed any additional capital expenditure (ACE) during the tariff period 2014-19 and, therefore, no additional capital expenditure was considered for the tariff period 2014-19. Accordingly, the final transmission tariff for tariff period 2014-19 based on admitted cost ₹1840.94 lakh as on 1.4.2014 and as on 31.3.2019 was approved by the Commission vide order dated 18.4.2016 in Petition No. 180/TT/2014.

4. As provided under Regulation 8(1) of the 2014 Tariff Regulations, the tariff allowed for the 2014-19 period is trued-up. Also, the tariff for the 2019-24 period is determined under Regulation 8 of the 2019 Tariff Regulations in the following paragraphs.

5. The Respondents are distribution licensees and power departments, who are procuring transmission service from the Petitioner, mainly beneficiaries of Northern Region.

6. The Petitioner has served the petition on the Respondents and notice of this petition has been published in the newspaper in accordance with Section 64 of the Electricity Act, 2003. No comments/ objections have been received from the general public in response to the aforesaid notice published in the newspaper. The Uttar Pradesh Power Company Ltd. (UPPCL), Respondent No. 9, has filed its reply vide affidavit dated 16.10.2019, wherein the issue of Return on Equity and calculation of Interest on Loan has been raised. BSES Rajdhani Power Ltd. (BRPL), Respondent No. 12, vide affidavits dated 29.1.2020, 14.9.2020 and 24.9.2020 has submitted its replies in the matter, wherein the issue of disallowing tariff of transmission asset which is spare in nature, consideration of effective tax rate for grossing up of RoE, deferred tax liability for the 2014-19 period, effect of GST and additional taxes, Interest on Working Capital (IWC), need for filing separate security and reimbursement of application filing fees etc. have been raised. The Petitioner, vide affidavit dated



30.7.2020 has filed rejoinder to the reply of UPPCL and vide affidavits dated 13.8.2020 and 24.8.2020 has filed rejoinders to the replies of BRPL. The issues raised by UPPCL and BRPL and the clarifications given by the Petitioner are dealt with in relevant paragraphs of this order.

7. This order is issued considering the main petition vide affidavit dated 27.8.2019, the Petitioner's affidavits dated 24.7.2020, 30.7.2020, 13.8.2020 and 24.8.2020, reply of UPPCL vide affidavit dated 16.10.2019 and reply of BRPL vide affidavits dated 29.1.2020, 14.9.2020 and BRPL's common reply vide affidavit dated 24.9.2020.

8. The hearing in this matter was heard on 31.7.2020 through video conference and the order was reserved.

9. Having heard the representatives of the Petitioner and perused the material on record, we proceed to dispose of the petition.

10. BRPL has submitted that the Petitioner has adopted the Indian Accounting Standard due to which tariff for the transmission asset has increased. BRPL has submitted that Indian Accounting Standard is for the purposes of the Companies Act, 2013 and it is not for the purposes of tariff determination. The present case is governed by provisions of the 2014 Tariff Regulations and the 2019 Tariff Regulations. BRPL has stated that it has, in Petition No. 470/TT/2020, explained in detail how the adoption of Indian Accounting Standard is increasing the tariff. It has further contended that the submissions of the Petitioner are against the established practice of the 2014 Tariff Regulations and are liable to be rejected.

11. In response, the Petitioner vide affidavit dated 24.8.2020 has submitted that the Ministry of Corporate Affairs (MCA), in 2015, had notified the Companies (Indian Accounting Standards (IND AS) Rules 2015, which stipulated mandatory adoption and



applicability of IND AS beginning from the Accounting period 2016-17 for companies having net worth more than ₹500 crore. Accordingly, the Petitioner company adopted IND AS w.e.f. 2015-16. The above information was submitted by the Petitioner for the knowledge of Commission and the Respondents in the instant true-up petition. On opting for deemed cost exemption as per paragraph D7 AA of IND AS 101 'First-time Adoption of Indian Accounting Standards', Gross Block less Accumulated Depreciation as on 1.4.2015 is considered as deemed cost as on the date of transition i.e. 1.4.2015 in the books of account. As such, in case of assets put into commercial operation on or before 1.4.2015, the gross block of the assets reflects, gross block less accumulated depreciation as on 31.03.2015 in the books of accounts. There has been no change in the capital cost or additional capital expenditure considered for claiming transmission tariff on account of adoption of IND AS. For the purpose of computation of tariff, the actual capital cost and additional capital expenses had been claimed. Thus, there is no impact in tariff on account of adoption of IND AS at any point of time. The said treatment only relates to the "Gross Block amount as per Books" which is required to be reported in certain Tariff Forms (Eg: Form 4A, Form 5) as per the formats prescribed by the Commission. The Petitioner has submitted that the Original Gross Block amount as per books is required to be disclosed in the tariff forms. However, it has no impact on the tariff being claimed.

12. As regards BRPL's contention that adoption of IND AS has resulted in increase in tariff by ₹43.27 lakh in Petition No. 470/TT/2020 in 2014-19 tariff period, the Petitioner has submitted that the subject petition was filed for trueing up tariff for the 2014-19 tariff period for transmission system associated with Uri HEP (4X120 MW) in Northern Region. The Petitioner claimed tariff on capital cost of ₹22956.61 lakh as on 31.3.2014 as admitted by Commission in its order dated 31.3.2016 in Petition No 190/TT/2014. Further, no additional capital expenditure was claimed during 2014-19



period in the petition. Thus, the difference in tariff of ₹43.27 lakh claimed in the said true up petition is only on account of change in effective tax rates. No additional/ inflated tariff has been claimed due to implementation of IND AS. The exercise of truing up of transmission tariff for the 2014-19 tariff period was carried out for change in MAT rate during 2014-19 tariff period and thus the tariff determined by the Commission has changed and the difference is not due to opting for deemed cost exemption as per Para D7 AA of Ind AS 101 'First-time Adoption of Indian Accounting Standards'.

13. We have considered the submissions of the Petitioner and BRPL and have also gone through the record. BRPL raised the same issue in Petition No.136/TT/2020 and the Commission has already rejected the contention of BRPL vide order dated 24.1.2021. Thus, we do not go into the issue again. The relevant portion of the order dated 24.1.2021 in Petition No.136/TT/2020 is extracted hereunder:

*“35. We have considered the submissions of the Petitioner and BRPL. BRPL has contended that the new accounting standards adopted would result in higher tariffs. The Petitioner in response has clarified that the new standards adopted by it would not have any impact on the tariff to be determined by the Commission. The new accounting standards have been adopted by the Petitioner as per the requirement under the Companies Act, 2013. BRPL has merely stated adoption of new accounting standards would lead to higher tariff and has not stated how it would lead to higher tariff. The tariff is determined for the transmission assets owned by the Petitioner on the basis of the applicable tariff regulations, in the instant case the 2014 Tariff Regulations and 2019 Tariff Regulations. As the tariff is determined on the basis of the tariff regulations, we are of the view that the adoption of the new accounting standards by the Petitioner would not have any impact on the tariff that is determined purely on the basis of the applicable tariff regulations.”*

### **TRUING-UP OF ANNUAL FIXED CHARGES OF 2014-19 TARIFF PERIOD**

14. The Commission vide order 18.4.2016 in Petition No. 180/TT/2014 had approved the following tariff for the transmission asset for the 2014-19 period:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	50.98	50.98	50.98	50.98	50.98
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	361.01	361.01	361.01	361.01	361.01





Interest on Working Capital	9.48	9.48	9.48	9.48	9.48
O&M Expenses	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>421.47</b>	<b>421.47</b>	<b>421.47</b>	<b>421.47</b>	<b>421.47</b>

15. The details of the trued-up transmission charges claimed by the Petitioner in respect of the transmission asset is as under:-

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	50.98	50.98	50.98	50.98	50.98
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	361.28	362.94	362.76	362.76	363.73
Interest on Working Capital	9.49	9.53	9.52	9.52	9.55
O&M Expenses	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>421.75</b>	<b>423.45</b>	<b>423.26</b>	<b>423.26</b>	<b>424.26</b>

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

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Maintenance Spares	0.00	0.00	0.00	0.00	0.00
O&M expenses	0.00	0.00	0.00	0.00	0.00
Receivables	70.29	70.58	70.54	70.54	70.71
<b>Total</b>	<b>70.29</b>	<b>70.58</b>	<b>70.54</b>	<b>70.54</b>	<b>70.71</b>
Rate of Interest	13.50%	13.50%	13.50%	13.50%	13.50%
<b>Interest on Working Capital</b>	<b>9.49</b>	<b>9.53</b>	<b>9.52</b>	<b>9.52</b>	<b>9.55</b>

#### **Capital Cost as on 1.4.2014**

17. The Respondent, BRPL has submitted that the subject asset is an Additional Converter Transformer (Spare) for Rihand-Dadri HVDC Bi-pole. Therefore, under relevant provisions of Regulation 7(1) of the 2009 Tariff Regulations and Regulation 9(6)(a) of the 2014 Tariff Regulations, this may be treated as 'Asset not in use' and accordingly, tariff granted since the COD of asset, be discontinued. BRPL has further submitted that Appellate Tribunal for Electricity (APTEL) in its judgment dated 25.4.2016 in Appeal No. 98 of 2015 observed that the transformers that stand replaced, remain as spare transformers till the time they are requisitioned by any other beneficiary State and this should be treated as spare transformer but 'asset not in



use'. BRPL has submitted that APTEL in its judgment dated 1.5.2015 in Appeal No. 97 of 2013 has specifically observed that unless there is a specific provision in the regulations permitting capitalization of the cost of spare assets, such assets cannot be included in the capital cost. BRPL has further submitted that the decision to include the cost of spare ICTs is an incorrect decision and an incorrect decision cannot be allowed in perpetuity as observed by APTEL in judgement dated 12.5.2015 in Appeal Nos.129 of 2012 & Ors. In view of the judgements of APTEL, the transmission asset should be removed from the PoC mechanism and the Petitioner should be directed to refund the tariff charges claimed from the beneficiaries.

18. In response to contentions of BRPL, the Petitioner has submitted as under:

a) The subject additional converter transformer has been installed in pursuance of the decision at the meeting of Northern Regional Electricity Board (NREB), in which the beneficiaries are duly represented. The Petitioner is entitled to claim charges on account of additional cost incurred on its procurement and maintenance. Accordingly, the asset has been capitalized and Commission has already allowed the transmission tariff. Therefore, the Petitioner is justified in claiming tariff through instant petition.

b) As a result of repeated failures of converter transformer of Rihand-Dadri HVDC bi-pole system, it was discussed in the 114<sup>th</sup> meeting of NREB on 15.11.1998 to procure a spare/ additional converter transformer for Rihand-Dadri HVDC bi-pole system for smoother and reliable operation of the Grid. Rihand-Dadri HVDC bi-pole system is considered vital for the security of the Grid. Accordingly, the subject converter transformer was procured and installed by the Petitioner on 1.10.2000. The asset has been procured for the security and reliability of the National Grid, is of national importance and ready to be used whenever required. Therefore, the contention raised by BRPL that asset is not being used, is incorrect.

c) APTEL's judgment dated 25.4.2016 in Appeal No. 98 of 2015 (against Commission's order dated 6.1.2015 in Petition No.206/TT/2012) cannot be



applied to the facts of the present case as the subject matter in the said Appeal and the facts of the present case are entirely different. In the said judgement dated 25.4.2016, the Petitioner had replaced 3x50 MVA, 220/132 kV transformer by 3x160 MVA 220/132 kV transformer at 400/200/132 kV Malda and Birpara Sub-stations. The Commission in its order dated 6.1.2015 in Petition No. 206/TT/2012 observed that 50 MVA transformers were no longer the assets in use after their replacement and they also had completed their useful life. As such, the three 50 MVA transformers were required to be de-capitalized from the date of replacement and not to be considered as spare transformers.

d) APTEL's judgment dated 1.5.2015 in Appeal No. 97 of 2013 relates to a generator transformer which was in operation in the Tanda Power Station for more than 20 years. During the capital overhaul, insulation of the generator transformer was found to be affected due to ageing and fatigue that might have led to failure of generator transformer. Outage of generator transformer may lead to repair and there would be significant loss of generation during the restoration time. As such, it became necessary to procure one spare generator transformer to be kept in stock.

e) Appeal No. 173 of 2013 was filed by NPTC against the Commission's order dated 28.5.2013 in Petition No. 269 of 2009, wherein the Commission disallowed the capital expenditure on purchase of generator transformer at Kahalgaon STPS (Stage-II) on the ground that the damaged generator transformer was replaced by the spare generator transformer which was available at the generating station and that the expenditure on the spare transformer had already been considered in the capital cost in the year 2002-03.

f) Spares in the instant petition were procured for reliability and stability of the National Grid based on the discussions in 114<sup>th</sup> meeting of NREB (Now, NRPC) on 15.1.1998. Subsequently, Commission approved the transmission tariff for the subject asset in various tariff orders and subsequent true up tariff orders.

19. We have considered the submissions of the Petitioner and BRPL. BRPL has mainly contented that in view of the APTEL's judgements, the tariff for the



transmission asset which are spares, should not be granted. The second contention of BRPL is that in view of Regulation 7(1) of the 2009 Tariff Regulations and Regulation 9(6)(a) of the 2014 Tariff Regulations, the transmission asset which are spares and not in use should not be granted tariff. The other contention of BRPL is that an incorrect decision cannot be allowed in perpetuity. BRPL made similar contentions in Petition No.136/TT/2020 and the Petitioner had submitted identical clarifications to the issues raised by BRPL. The Commission has rejected the contentions of BRPL vide order dated 24.1.2021 in Petition No.136/TT/2020. The relevant portions of the order dated 24.1.2021 are as under:

*“19. We have considered the submissions of BRPL and the Petitioner. BRPL’s contentions are two-fold. The first contention of BRPL is that in view of the APTEL’s judgements, the tariff for the instant two 315 MVA ICTs in Mandola and Ludhiana, which are spares, should not be granted. The second contention is that in view of Regulation 7(1) of the 2009 Tariff Regulations and Regulation 9(6)(a) of the 2014 Tariff Regulations, the transmission assets which are spares and not in use should not be granted tariff. We deal with the contentions of BRPL in the subsequent paragraphs.*

*20. As stated in paragraph 3 above, COD of Assets-I and II was approved by the Commission as 1.11.2010 and 1.3.2012 respectively. The tariff for the transmission assets from their COD to 31.3.2014 was approved vide order dated 6.1.2015 in Petition No. 113/TT/2012 and the transmission tariff of the 2009-14 tariff period was trued up and tariff for the 2014-19 period was allowed vide order dated 26.2.2016 in Petition No. 191/TT/2015. The instant petition is for truing up of the tariff of the 2014-19 tariff period and for grant of tariff for the 2019-24 tariff period. It is observed that the procurement of the instant spare ICTs was discussed and agreed in the 14<sup>th</sup> NRPC meeting held on 19.9.2009 and in the 28<sup>th</sup> SCM of Northern Region on 23.2.2010. The instant ICTs were planned and executed as spares taking into consideration the technical requirements and after having been approved by the beneficiaries in NRPC. In this backdrop, we consider the applicability of the APTEL’s judgement dated 25.4.2016 in Appeal No. 98 of 2015 to the present case. Appeal No.98 of 2015 was filed by the Petitioner against the Commission’s order dated 6.1.2015 in Petition No.206/TT/2012. The Commission in the said order dated 6.1.2015 did not approve use of the replaced transformers, which had completed their useful life, as spares and the same was upheld by APTEL in its judgement dated 25.4.2016 which has been relied upon by BRPL. In the instant case, the ICTs have been planned, approved and executed as spares to meet eventualities, whereas in Petition No.206/TT/2012, the Petitioner’s prayer was to use the transformers, which had completed their useful life, as spares. We are of the considered view that the facts in the instant case are markedly distinct from the facts that were before APTEL in Appeal No. 98 of 2015 and, therefore, the judgement dated 25.4.2016 of APTEL cannot be extended to the present case. It is further observed that BRPL has raised the issue after more than eight years of the commercial operation of the assets and five years of granting initial tariff for the transmission assets.*

*21. BRPL has further submitted that APTEL in its judgments dated 8.5.2014 in Appeal No. 173 of 2013 and 1.5.2015 in Appeal No. 97 of 2013 disallowed capitalization of spare transformers and accordingly tariff should not be allowed for the instant spare*



ICTs. APTEL's judgement dated 8.5.2014 in Appeal No. 173 of 2013 was against the Commission's order dated 28.5.2013 in Petition No.269/2009. NTPC in Petition No.269/2009 sought capital expenditure for purchase of a generator transformer at Kahalgaon STPS in addition to the spare generator transformer, which replaced the damaged transformer. In short, NTPC sought an additional spare generator transformer which was disallowed by the Commission in order dated 28.5.2013 and the same was upheld by APTEL in judgement dated 8.5.2014 in Appeal No. 173 of 2013. In Appeal No. 97 of 2013 relating to NTPC's Tanda Thermal generating station, capitalization of the spare generator transformer sought by NTPC on the ground that it was a takeover plant was disallowed by the Commission as it was after the cut-off date and there was no such provision under the 2009 Tariff Regulations for its capitalization and this was affirmed by APTEL in its judgment dated 1.5.2015 in Appeal No. 97 of 2013. We are of the view that the facts in the instant case are different from the facts and the claims made by NTPC in Petition No.269/2009 and Petition No.329/GT/2014 in respect of Kahalgaon and Tanda generating station respectively. Therefore, we are of the view that the APTEL's judgements dated 8.5.2014 in Appeal No. 173 of 2013 and 1.5.2015 in Appeal No. 97 of 2013 are not applicable to the instant case.

22. BRPL's second contention is that as per Regulation 7(1) of the 2009 Tariff Regulations and Regulation 9(6)(a) of the 2014 Tariff Regulations, the transmission assets which are spares and 'not-in-use' should not be granted tariff. BRPL has emphasized that the instant spare ICTs are 'not-in-use' and hence they should be removed from the capital cost and should not be serviced. In our view, this submission of BRPL is misconceived. It is pertinent to mention that these spare ICTs were discussed and agreed in the 14<sup>th</sup> NRPC meeting held on 19.9.2009 and in the 28<sup>th</sup> SCM of Northern Region held on 23.2.2010. Accordingly, these assets have been planned, approved and executed as "spare ICTs". In our view, any asset that is set-up or developed as a standalone spare asset is expected to serve the intended purpose i.e. 'to be in use as a spare' and cannot be categorized as assets 'not in use'" and should be serviced. In this background, we are not inclined to accept the contention of BRPL.

23. As regards the contention of BRPL that a wrong order cannot be allowed in perpetuity, we are of the view that there is no infirmity in the Commission's orders dated 6.1.2015 in Petition No. 113/TT/2012 and order dated 26.2.2016 in Petition No. 191/TT/2015. Hence, question of removal of the transmission assets from the PoC computation and reimbursement of tariff already recovered from the beneficiaries does not arise."

As the Commission has already considered the submissions of BRPL in order dated 24.1.2021 in Petition No.136/TT/2020 and rejected them, we reject the contention of BRPL that the instant transmission asset should be removed from the PoC mechanism in this petition also.

### **Additional Capital Expenditure (ACE)**

20. The Petitioner has not claimed any additional capital expenditure for the tariff period 2014-19. Accordingly, the final transmission tariff for the 2014-19 tariff period is



based on admitted cost of ₹1840.94 lakh as on 1.4.2014 and 31.3.2019 as was approved by the Commission vide order dated 18.4.2016 in Petition No. 180/TT/2014.

21. Accordingly, the capital cost admitted for the purpose of true up of tariff of 2014-19 period is as under:

(₹ in lakh)		
Capital Cost as on 1.4.2014	Additional Capitalisation in 2014-19	Total Capital Cost as on 31.3.2019
1840.94	0.00	1840.94

### **Debt-Equity Ratio**

22. UPPCL has submitted that debt-equity ratio of 70:30 should be adopted instead of 100% equity claimed by the Petitioner as the beneficiaries have to bear excess RoE on this account. Further, the Petitioner may be directed to claim IoL on the normative debt of 70% of capital cost. In response, the Petitioner has submitted that debt-equity ratio of 0.00:100 has been admitted by the Commission vide order dated 18.4.2016 in Petition No. 180/TT/2014. Accordingly, the same has been considered for calculating the tariff of 2014-19 tariff period as no additional capitalisation has been claimed during 2014-19.

23. We have considered the submissions of the Petitioner and UPPCL. The debt-equity ratio has been allowed in accordance with Regulation 19(3) of the 2014 Tariff Regulations. As per Regulation 19(3) of the 2014 Tariff Regulations, the debt-equity ratio allowed by the Commission for determination of tariff for the period ending on 31.3.2014 shall be considered. The Petitioner has claimed debt-equity ratio as on 31.3.2014 approved by the Commission vide order dated 18.4.2016 in Petition No. 180/TT/2014. The same has been considered as opening debt-equity ratio as on 1.4.2014. The Petitioner has not claimed any ACE for transmission asset for the tariff



period 2014-19. Accordingly, the details of the debt-equity ratio considered by the Commission as on 1.4.2014 and 31.3.2019 of the transmission asset is as follows:

Particulars	Capital cost as on 1.4.2014 (₹ in lakh)	%	Total cost as on 31.3.2019 (₹ in lakh)	%
Debt	0.00	0.00	0.00	0.00
Equity	1840.94	100.00	1840.94	100.00
<b>Total</b>	<b>1840.94</b>	<b>100.00</b>	<b>1840.94</b>	<b>100.00</b>

### **Interest on Loan (IOL)**

24. The Petitioner has not claimed any interest on loan for the tariff period 2014-19 as the project is entirely equity funded. Accordingly, Interest on Loan has been considered as NIL for the purpose of computation of tariff.

### **Return on Equity (RoE)**

25. The Petitioner is entitled for Return on equity for the transmission asset in terms of Regulations 24 and 25 of the 2014 Tariff Regulations. The Petitioner has submitted that they are liable to pay income tax at 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	21.0177	19.625
2015-16	21.3819	19.716
2016-17	21.3384	19.705
2017-18	21.3371	19.704
2018-19	21.5488	19.758

26. UPPCL has submitted 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. In response, the Petitioner has submitted that the effective rate of tax considered for 2014-15, 2015-16 and 2016-17 are based on Assessment Orders issued by Income Tax authorities, for the purpose of grossing up of RoE rate. Further, 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 RoE rate of respective years. The Petitioner has submitted that the authenticated tax rates have been considered for calculation of RoE.

27. The Petitioner has submitted that the Commission has granted trued-up tariff of 2014-19 tariff period vide order dated 27.4.2020 in Petition No. 274/TT/2019 and various other similar orders, wherein effective tax rate based (for tariff block 2014-19) on notified MAT rates are considered for the purpose of grossing-up of rate of return on equity (RoE).

28. BRPL has submitted that the Petitioner has claimed effective tax rate based on the consolidated income of the Company. However, the income from other business activities of the Petitioner like consulting, communication, planning and design of projects etc. are required to be excluded from the computation of effective rate. BRPL has further submitted that the Deferred Tax Liability (DTL) relevant to the aforesaid other business also should not be considered in the computation of effective tax rate. In response, the Petitioner vide affidavit dated 30.7.2020 has submitted that it has claimed DTL during the period 2009-14 only for the DTL upto 31.3.2009 and that has materialised. Further, the DTL amount billed/ materialised for 2014-19 period is yet to be claimed (under process). Further, the deferred tax materialized for the period upto 31.3.2009 is not considered while grossing up the RoE.

29. BRPL in its reply filed vide affidavit dated 30.7.2020 and 3.8.2020 has submitted that 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 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 be 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.

30. In response, the Petitioner vide affidavits dated 24.8.2020 and 13.8.2020 has submitted that it does not file income tax return on transmission business in respect of particular region as the company has 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 Auditors certificate clearly showing income from transmission income and income from other segments along

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with copy of assessment order/ income return which are 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 u/s 115JB (Minimum Alternate Tax) then 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 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 now 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 the 1961 Act.

31. BRPL has further submitted that the Petitioner may be directed to file the statutory regional financial documents for transmission business to ascertain the

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actual tax paid during the 2014-19 tariff period for the purpose of truing up. In response, the Petitioner has submitted detailed reply along with documentary support for income and actual tax paid and also submitted region-wise Balance Sheet and Profit and Loss Accounts for 2014-19 and cost Audit Report for 2017-18 and 2018-19 vide rejoinder dated 10.8.2020 to the reply filed by BRPL in Petition No. 24/TT/2020. The Petitioner has reiterated that during 2014-15 to 2018-19, the Petitioner was liable to pay tax under the provisions of section 115JB of the 1961 Act, i.e. the entire income of the company was liable to be taxed at Minimum Alternate Tax ('MAT') rate. Therefore, the income from all streams of business is taxable at a uniform tax rate. While computing the adjusted book profits liable to be taxed as income under the MAT provisions, no specific deduction/ exemption/ relief was claimed/ allowable for any specific stream of income. Hence, inclusion/ exclusion of non-transmission income does not impact the computation of effective tax rate used for the purpose of grossing up RoE.

32. The Petitioner also submitted that the contention of BRPL that the ultimate source of actual tax payment is the Profit and Loss Account for Northern Region is not correct. The Petitioner has submitted that the Company has been paying tax under the provisions of section 115JB of the 1961 Act (MAT provisions). Its taxable income is derived as per the MAT provisions from the "Profit Before Tax" as reported in the financial statements. The profit before tax as reported in the financial statements cannot be used as a base to calculate the effective tax rate. The Petitioner has also prayed to consider the documents already submitted by it in rejoinder dated 10.8.2020 in Petition No. 24/TT/2020 while passing the tariff order in the subject petition.

33. We have considered the contentions of BRPL, UPPCL and the clarifications given by the Petitioner. The Commission has already dealt with the above contentions



of BRPL and UPPCL in order dated 24.1.2021 in Petition No.136/TT/2020. The relevant portion of order dated 24.1.2021 is extracted hereunder:-

*“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. ”*

34. The Commission, vide order dated 27.4.2020 in Petition No. 274/TT/2019, has arrived at the effective tax rate 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) (in %)	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

35. The MAT rates considered above in Petition No. 274/TT/2019 are considered for the purpose of grossing up of rate of RoE for truing up of the tariff of the 2014-19 tariff period in terms of the provisions of the 2014 Tariff Regulations.

Year	Notified MAT rates (inclusive of surcharge & cess) (in %)	Base rate of RoE (in %)	Grossed up RoE (Base Rate/1-t) (in %)
2014-15	20.961	15.50	19.610
2015-16	21.342	15.50	19.705
2016-17	21.342	15.50	19.705
2017-18	21.342	15.50	19.705
2018-19	21.549	15.50	19.758

36. The Petitioner has claimed RoE for the 2014-19 tariff period after grossing up ROE of 15.50% with Effective Tax rates (based on MAT rates) each year. 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	1840.90	1840.90	1840.90	1840.90	1840.90
Addition due to Additional Capitalization	0.00	0.00	0.00	0.00	0.00
Closing Equity	1840.90	1840.90	1840.90	1840.90	1840.90
Average Equity	1840.90	1840.90	1840.90	1840.90	1840.90
Return on Equity (Base Rate) (%)	15.50%	15.50%	15.50%	15.50%	15.50%
MAT rate for the Respective year (%)	20.961%	21.342%	21.342%	21.342%	21.549%
Rate of Return on Equity (Pre-tax) (%)	19.610%	19.705%	19.705%	19.705%	19.758%



<b>Return on Equity (Pre-tax)</b>	<b>361.00</b>	<b>362.75</b>	<b>362.75</b>	<b>362.75</b>	<b>363.73</b>
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37. Accordingly, details of RoE approved vide order dated 18.4.2016 in Petition No. 180/TT/2014, claimed by the Petitioner in the instant petition and trued up RoE in this order for the 2014-19 tariff period are as under:-

<b>Particulars</b>	<b>(₹ in lakh)</b>				
	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Approved vide order dated 18.4.2016 in Petition No. 180/TT/2014	361.01	361.01	361.01	361.01	361.01
Claimed by the Petitioner in the instant Petition	361.28	362.94	362.76	362.76	363.73
Allowed after true-up in this order	361.00	362.75	362.75	362.75	363.73

### **Depreciation**

38. The depreciation has been worked out as per the methodology provided in Regulation 27 of the 2014 Tariff Regulations. The transmission asset was put into commercial operation on 1.10.2000. Hence, 12 years had been completed during 2009-14 period. Cumulative depreciation up to 31.3.2014 is ₹1045.13 lakh. The depreciation for entire tariff period of 2014-19 has been allowed by spreading over of balance depreciable value as on 1.4.2014 (as placed in Annexure-1). The depreciation allowed is as follows:-

<b>Particulars</b>	<b>(₹ in lakh)</b>				
	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Opening Gross Block	1840.94	1840.94	1840.94	1840.94	1840.94
Additional Capitalisation	0.00	0.00	0.00	0.00	0.00
Closing Gross Block	1840.94	1840.94	1840.94	1840.94	1840.94
Average Gross Block	1840.94	1840.94	1840.94	1840.94	1840.94
Freehold Land	0.00	0.00	0.00	0.00	0.00
Weighted Average Rate of Depreciation (WAROD)	SPREADING (12 years completed in 2009-14 period)				
Balance useful life of the asset at the beginning of the year	12	11	10	9	8
Elapsed life	13	14	15	16	17
Aggregated Depreciable Value	1656.85	1656.85	1656.85	1656.85	1656.85
<b>Depreciation during the Year</b>	<b>50.98</b>	<b>50.98</b>	<b>50.98</b>	<b>50.98</b>	<b>50.98</b>
Aggregate Cumulative Depreciation	1096.11	1147.08	1198.06	1249.04	1300.01
Remaining Aggregate Depreciable Value	611.72	560.74	509.76	458.79	407.81



39. The details of depreciation approved vide order dated 18.4.2016 in Petition No. 180/TT/2014, claimed by the Petitioner in the instant petition and trued up depreciation allowed in this order is shown in the table below:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved vide order dated 18.4.2016 in Petition No. 180/TT/2014	50.98	50.98	50.98	50.98	50.98
Claimed by the Petitioner in the instant Petition	50.98	50.98	50.98	50.98	50.98
Allowed after true-up in this order	50.98	50.98	50.98	50.98	50.98

### **Operation and Maintenance Expenses (O&M Expenses)**

40. Since the assets are spare in nature, O&M is not applicable. Further, the Petitioner has not claimed O&M Expenses.

### **Interest on Working Capital (IWC)**

41. The Petitioner is entitled for IWC as per Regulation 28 of the 2014 Tariff Regulations. IWC allowed as per the methodology provided in the Regulation 28 of the 2014 Tariff Regulations is as under: -

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Maintenance Spares	0.00	0.00	0.00	0.00	0.00
O&M expenses	0.00	0.00	0.00	0.00	0.00
Receivables	70.24	70.54	70.54	70.54	70.71
<b>Total</b>	<b>70.24</b>	<b>70.54</b>	<b>70.54</b>	<b>70.54</b>	<b>70.71</b>
Rate of Interest	13.50%	13.50%	13.50%	13.50%	13.50%
<b>Interest on Working Capital</b>	<b>9.48</b>	<b>9.52</b>	<b>9.52</b>	<b>9.52</b>	<b>9.55</b>

42. The details of IWC approved earlier vide order dated 18.4.2016 in Petition No. 180/TT/2014, IWC claimed by the Petitioner in the instant petition and trued up in the instant order for the 2014-19 period is shown as under: -

(₹ in lakh)					
Particulars (IWC)	2014-15	2015-16	2016-17	2017-18	2018-19
Approved vide order dated 18.4.2016 in Petition No. 180/TT/2014	9.48	9.48	9.48	9.48	9.48
Claimed by the Petitioner in the instant petition	9.49	9.53	9.52	9.52	9.55
Allowed after true-up in this order	9.48	9.52	9.52	9.52	9.55





### **Approved Annual Fixed Charges for 2014-19 Tariff Period**

43. The trued up annual fixed charges for the transmission asset for the tariff period 2014-19 are summarised below: -

(₹ in lakh)					
<b>Particulars</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Depreciation	50.98	50.98	50.98	50.98	50.98
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	361.00	362.75	362.75	362.75	363.73
Interest on Working Capital	9.48	9.52	9.52	9.52	9.55
O&M Expenses	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>421.46</b>	<b>423.25</b>	<b>423.25</b>	<b>423.25</b>	<b>424.25</b>

44. The details of Annual Fixed Charges approved earlier vide order dated 18.4.2016 in Petition No. 180/TT/2014, claimed by the Petitioner in the instant petition and trued up in the instant order for the 2014-19 period is shown as under: -

(₹ in lakh)					
<b>Particulars</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Approved vide order dated 18.4.2016 in Petition No. 180/TT/2014	421.47	421.47	421.47	421.47	421.47
Claimed by the Petitioner in the instant petition	421.75	423.45	423.26	423.26	424.26
Allowed after true-up in this order	421.46	423.25	423.25	423.25	424.25

### **DETERMINATION OF ANNUAL FIXED CHARGES FOR 2019-24 TARIFF PERIOD**

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

(₹ in lakh)					
<b>Particulars</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
Depreciation	50.97	50.98	50.97	50.98	50.97
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	363.73	363.73	363.73	363.73	363.73
Interest on Working Capital	6.24	6.25	6.25	6.25	6.24
O&M Expenses	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>420.94</b>	<b>420.96</b>	<b>420.95</b>	<b>420.96</b>	<b>420.94</b>

46. The details of IWC claimed by the Petitioner for the transmission asset for the 2019-24 tariff period are as under: -

(₹ in lakh)					
<b>Particulars</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
Maintenance Spares	0.00	0.00	0.00	0.00	0.00
O&M expenses	0.00	0.00	0.00	0.00	0.00





Receivables	51.75	51.90	51.90	51.90	51.75
<b>Total</b>	<b>51.75</b>	<b>51.90</b>	<b>51.90</b>	<b>51.90</b>	<b>51.75</b>
Rate of Interest	12.05%	12.05%	12.05%	12.05%	12.05%
<b>Interest on Working Capital</b>	<b>6.24</b>	<b>6.25</b>	<b>6.25</b>	<b>6.25</b>	<b>6.24</b>

## **Capital Cost**

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

**“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 tried 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 renovation and modernisation as admitted by this Commission in accordance with these regulations;
- (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 in conformity 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 ₹1840.94 lakh as on 31.3.2019 for the transmission asset. The Commission has worked out the same capital cost of ₹1840.94 lakh as on 31.3.2019 and it has been considered as the opening capital cost as on 1.4.2019 for determination of tariff in accordance with Regulation 19 of the 2019 Tariff Regulations.



### Additional Capital Expenditure (ACE)

49. The Petitioner has not claimed any ACE during 2019-24 tariff period. Accordingly, the capital cost considered as on 1.4.2019 and 31.3.2014 is ₹1840.94 as under:

(₹ in lakh)		
Capital Cost as on 1.4.2019	ACE claimed during tariff period 2019-24	Total Capital Cost as on 31.3.2024
1840.94	Nil	1840.94

### Debt-Equity Ratio

50. 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 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.”*

51. UPPCL has submitted that debt-equity ratio of 70:30 should be adopted instead of 100% equity claimed by the Petitioner as the beneficiaries have to bear excess RoE on this account. Further, the Petitioner may be directed to claim IoL on the normative debt of 70% of capital cost. In response, the Petitioner vide affidavit dated 30.7.2020 has submitted that debt-equity ratio of 0:100 has been admitted by the Commission vide order dated 18.4.2016 in Petition No. 180/TT/2014. Accordingly, the same should be considered for calculating the tariff of 2019-24 as no additional capitalisation has been claimed during 2014-19 and 2019-24 tariff periods.

52. We have considered the submissions of the Petitioner and UPPCL. The debt-equity ratio for the 2019-24 period is allowed as per Regulation 18(3) of the 2019 Tariff Regulations. The details of the debt-equity ratio considered for the purpose of tariff for 2019-24 tariff period is as follows:-

<b>Particulars</b>	<b>Capital cost as on 1.4.2019 (₹ in lakh)</b>	<b>%</b>	<b>Total cost as on 31.3.2024 (₹ in lakh)</b>	<b>%</b>
Debt	0.00	0.00	0.00	0.00
Equity	1840.94	100.00	1840.94	100.00
<b>Total</b>	<b>1840.94</b>	<b>100.00</b>	<b>1840.94</b>	<b>100.00</b>

### **Return on Equity (ROE)**

53. Regulation 30 and Regulation 31 of the 2019 Tariff Regulations specify 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 runof 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:

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."

54. UPPCL has submitted that the rate of RoE has been adopted as 21.5488% which has not yet been approved by the IT authorities. UPPCL has further submitted that the Petitioner has claimed excess RoE during the 2019-24 tariff period to the tune of ₹12.23 crore considering 100% equity. In response to the contentions of UPPCL, the Petitioner has submitted that there is change in MAT rate applicable for the year 2019-20 on account of taxation laws (Amendment) ordinance 2019 published in the Gazette dated 20.9.2019 and submitted the following:

a) RoE has been calculated at the rate of 18.782% after grossing up RoE with MAT rate of 17.472% (Base Rate 15% + Surcharge 12% + Cess 4%) based on the formula given as per Regulation 31(2) of the 2019 Tariff Regulations. Consequent to the change in MAT rate, the Petitioner has recalculated the tariff of 2019-24 as per revised tariff Forms-1, 3, 8 and 11 submitted vide affidavit dated 30.7.2020.

b) As per Regulation 31(3) of the 2019 Tariff Regulations, the grossed up rate of RoE at the end of every financial year should 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 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.

c) Any under-recovery or over-recovery of grossed up rate on ROE after truing up should be recovered or refunded to beneficiaries or the long-term customers, as the case may be, on year to year basis. Any additional tax demand including interest duly adjusted for any refund of tax including interest received from IT authorities should be recoverable/ adjustable during the tariff period 2019-24 on year to year basis on receipt of Income Tax assessment order.

55. We have considered the submission of the Petitioner and UPPCL. Regulation 30 read with Regulation 31 of the 2019 Tariff Regulations provides for grossing up of ROE with the effective tax rate for the purpose of return on equity. It further provides that in case the generating company or transmission licensee is paying Minimum Alternative Tax (MAT), the MAT rate including surcharge and cess will be considered for the grossing up of return on equity. The Petitioner has submitted that MAT rate is applicable to the Petitioner's company. 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. Accordingly, RoE allowed for transmission asset is as under:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Equity	1840.94	1840.94	1840.94	1840.94	1840.94
Addition due to Additional Capitalization	0.00	0.00	0.00	0.00	0.00
Closing Equity	1840.94	1840.94	1840.94	1840.94	1840.94
Average Equity	1840.94	1840.94	1840.94	1840.94	1840.94
Return on Equity (Base Rate)	15.50%	15.50%	15.50%	15.50%	15.50%
MAT rate for the Financial year 2019-20	17.472%	17.472%	17.472%	17.472%	17.472%
Rate of Return on Equity (Pre-tax)	18.782%	18.782%	18.782%	18.782%	18.782%
<b>Return on Equity (Pre-tax)</b>	<b>345.77</b>	<b>345.77</b>	<b>345.77</b>	<b>345.77</b>	<b>345.77</b>



## **Interest on Loan (IOL)**

56. The Petitioner has not claimed any interest on loan for the tariff period 2014-19 as the project is entirely equity funded. Accordingly, Interest on Loan has been considered as NIL for the purpose of tariff.

## **Depreciation**

57. Regulation 33 of the 2019 Tariff Regulations provide that:-

**"33. Depreciation:** (1) *Depreciation shall be computed from the date of commercial operation of a generating station or unit thereof or a transmission system or element thereof including communication system. 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:*

*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 a 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 the salvage value for IT equipment and software shall be considered as NIL and 100% value of the assets shall be considered depreciable;*

*Provided further that in case of hydro generating stations, the salvage value shall be as provided in the agreement, if any, signed by the developers with the State Government for development of the generating station:*

*Provided also 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 unit or transmission system as the case may be, shall not be allowed to be recovered at a later stage during the useful life or 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-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.

(6) In case of the existing projects, the balance depreciable value as on 1.4.2019 shall be worked out by deducting the cumulative depreciation as admitted by the Commission upto 31.3.2019 from the gross depreciable value of the assets.

(7) The generating company or the transmission licensee, as the case may be, shall submit the details of proposed capital expenditure five years before the completion of useful life of the project along with justification and proposed life extension. The Commission based on prudence check of such submissions shall approve the depreciation on capital expenditure.

(8) In case of de-capitalization of assets in respect of generating station or unit thereof or transmission system or element thereof, the cumulative depreciation shall be adjusted by taking into account the depreciation recovered in tariff by the decapitalized asset during its useful services.”

58. The depreciation has been worked out considering the admitted capital cost of ₹1840.94 lakh for the asset, as on 31.3.2019 and accumulated depreciation up to 31.3.2019 as ₹1300.01 lakh. The Asset has been put under commercial operation on 1.10.2000. Hence, 12 years had been completed during 2009-14 period. Accordingly, the depreciation for entire tariff period of 2019-24 has been allowed by spread over of balance depreciable value as on 1.4.2019 under Regulation 33(5) of 2019 Tariff Regulations (As placed in Annexure-2). The detailed calculations for depreciation for the transmission asset are worked out and allowed as follows:-

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Gross Block	1840.94	1840.94	1840.94	1840.94	1840.94
Additional Capitalisation	0.00	0.00	0.00	0.00	0.00
Closing Gross Block	1840.94	1840.94	1840.94	1840.94	1840.94
Average Gross Block	1840.94	1840.94	1840.94	1840.94	1840.94
Freehold Land	0.00	0.00	0.00	0.00	0.00
Weighted Average Rate of Depreciation (WAROD)	SPREADING (12 years completed in 2009-14 tariff period)				
Balance useful life of the asset at the beginning of the year	7	6	5	4	3
Elapsed life	18	19	20	21	22
Aggregated Depreciable Value	1656.85	1656.85	1656.85	1656.85	1656.85
<b>Depreciation during the Year</b>	<b>50.98</b>	<b>50.98</b>	<b>50.98</b>	<b>50.98</b>	<b>50.98</b>
Cumulative Depreciation	1350.99	1401.96	1452.94	1503.92	1554.89
Remaining Depreciable Value	356.84	305.86	254.88	203.91	152.93



## **Operation and Maintenance Expenses (O&M Expenses)**

59. Since the transmission asset is spare in nature, O&M Expenses are not applicable. The Petitioner has also not claimed O&M Expenses for the transmission asset.

## **Interest on Working Capital (IWC)**

60. Regulation 34 and Regulation 3(7) of the 2019 Tariff Regulations provide as under:

**“34. Interest on Working Capital:** (1) *The working capital shall cover:*

**(a) For Coal-based/lignite-fired thermal generating stations:**

(i) *Cost of coal or lignite and limestone towards stock, if applicable, for 10 days for pit-head generating stations and 20 days for non-pit-head generating stations for generation corresponding to the normative annual plant availability factor or the maximum coal/lignite stock storage capacity whichever is lower;*

(ii) *Advance payment for 30 days towards cost of coal or lignite and limestone for generation corresponding to the normative annual plant availability factor;*

(iii) *Cost of secondary fuel oil for two months for generation corresponding to the normative annual plant availability factor, and in case of use of more than one secondary fuel oil, cost of fuel oil stock for the main secondary fuel oil;*

(iv) *Maintenance spares @ 20% of operation and maintenance expenses including water charges and security expenses;*

(v) *Receivables equivalent to 45 days of capacity charge and energy charge for sale of electricity calculated on the normative annual plant availability factor; and*

(vi) *Operation and maintenance expenses, including water charges and security expenses, for one month.*

**(b) For Open-cycle Gas Turbine/Combined Cycle thermal generating stations:**

(i) *Fuel cost for 30 days corresponding to the normative annual plant availability factor, duly taking into account mode of operation of the generating station on gas fuel and liquid fuel;*

(ii) *Liquid fuel stock for 15 days corresponding to the normative annual plant availability factor, and in case of use of more than one liquid fuel, cost of main liquid fuel duly taking into account mode of operation of the generating stations of gas fuel and liquid fuel;*

(iii) *Maintenance spares @ 30% of operation and maintenance expenses including water charges and security expenses;*

(iv) *Receivables equivalent to 45 days of capacity charge and energy charge*



for sale of electricity calculated on normative plant availability factor, duly taking into account mode of operation of the generating station on gas fuel and liquid fuel; and

(v) Operation and maintenance expenses, including water charges and security expenses, for one month.

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

(i) Receivables equivalent to 45 days of annual 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.

(2) The cost of fuel in cases covered under sub-clauses (a) and (b) of clause (1) of this Regulation shall be based on the landed fuel cost (taking into account normative transit and handling losses in terms of Regulation 39 of these regulations) by the generating station and gross calorific value of the fuel as per actual weighted average for the third quarter of preceding financial year in case of each financial year for which tariff is to be determined:

Provided that in case of new generating station, the cost of fuel for the first financial year shall be considered based on landed fuel cost (taking into account normative transit and handling losses in terms of Regulation 39 of these regulations) and gross calorific value of the fuel as per actual weighted average for three months, as used for infirm power, preceding date of commercial operation for which tariff is to be determined.

(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 1<sup>st</sup> 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.** - In these regulations, unless the context otherwise requires:-

(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;”

61. The Petitioner has submitted that it has computed 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 interest on working capital as 12.05%. IWC is



worked out in accordance with Regulation 34 of the 2019 Tariff Regulations. The Rate of Interest (ROI) on working capital 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 allowed thereon 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
O&M expenses	0.00	0.00	0.00	0.00	0.00
Receivables	49.51	49.60	49.60	49.60	49.46
<b>Total</b>	<b>49.51</b>	<b>49.60</b>	<b>49.60</b>	<b>49.60</b>	<b>49.46</b>
Rate of Interest on working capital	12.05%	11.25%	11.25%	11.25%	11.25%
<b>Interest on Working Capital</b>	<b>5.97</b>	<b>5.58</b>	<b>5.58</b>	<b>5.58</b>	<b>5.56</b>

### **Approved Annual Fixed Charges for 2019-24 Tariff Period**

62. The Annual Fixed Charges allowed for the transmission asset for the 2019-24 period are summarised as under:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	50.98	50.98	50.98	50.98	50.98
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	345.77	345.77	345.77	345.77	345.77
Interest on Working Capital	5.97	5.58	5.58	5.58	5.56
O&M Expenses	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>402.71</b>	<b>402.32</b>	<b>402.32</b>	<b>402.32</b>	<b>402.31</b>

### **Filing Fee and Publication Expenses**

63. 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. BRPL has submitted 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 vide affidavit dated 30.7.2020 has submitted that it has requested for reimbursement of expenditure by the beneficiaries towards petition filing fee and publication expense, in terms of Regulation 70(1) of the 2019 Tariff Regulations. Further, the Petitioner also placed reliance on the 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.

64. We have considered the submissions of the Petitioner and BRPL. Regulation 70(1) of the 2019 Tariff Regulations provides for reimbursement of filing fees and publication paid by the Petitioner. Accordingly, the Petitioner is entitled for reimbursement of the filing fees and publication expenses in connection with the present petition, directly from the beneficiaries on *pro-rata* basis in accordance with Regulation 70(1) of the 2019 Tariff Regulations.

#### **License fee and RLDC Fees and Charges**

65. The Respondent, UPPCL, has submitted that the license fee is the onus of the Petitioner. The Petitioner has requested to allow to bill and recover License fee and RLDC fees and charges, separately from the Respondents, in terms of Regulation 70 of 2019 Tariff Regulations.

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



### **Goods and Services Tax**

67. The Petitioner has sought to recover GST on transmission charges separately from the Respondents, if at any time GST on transmission is withdrawn from negative list in future. Further additional taxes, if any, are to be paid by the Petitioner on account of demand from Govt./Statutory authorities, the same may be allowed to be recovered from the beneficiaries.

68. 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 Respondent(s) to the Petitioner and the same shall be charged and billed separately.

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

### **Security Expenses**

70. BRPL has stated that the Petitioner has submitted that a separate petition shall be filed for claiming the overall Security Expenses and consequential IWC on the same. The Petitioner should clarify under which provision of the 2019 Tariff Regulations the relief is sought.

71. The Petitioner has submitted that as per Regulation 35(3)(c) of 2019 Tariff Regulations, the Security Expenses and Capital Spares for transmission system shall be allowed separately after prudence check. The security expenses for the transmission asset are not claimed in the instant petition and the Petitioner would file a



separate petition for claiming the overall security expenses and the consequential IOWC. 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 will be filed on a 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 a yearly basis.

72. We have considered the submissions of the Petitioner and BRPL. We are of the view that Petitioner should claim security expenses for all the transmission assets in one petition. It is observed 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 Petition No. 260/MP/2020 in accordance with the appropriate provisions of the 2019 Tariff Regulations.

### **Capital Spares**

73. 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**

74. 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.

75. To summarise, the trued-up Annual Fixed Charges allowed 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
Annual Fixed Charges	421.46	423.25	423.25	423.25	424.25

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

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Annual Fixed Charges	402.71	402.32	402.32	402.32	402.31

76. This order disposes of Petition No. 313/TT/2019.

**sd/-**  
**(Arun Goyal)**  
**Member**

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





**DETAILS OF WEIGHTED AVERAGE RATE OF DEPRECIATION (WAROD)  
FOR THE 2014-19 TARIFF PERIOD**

2014-19 Capital Expenditure	Admitted Capital Cost as on 1.4.2014	Projected Additional Capitalisation during tariff period 2014-19	Admitted Capital Cost as on 31.3.2019	Rate of Depreciation as per Regulations	Annual Depreciation as per Regulations				
					2014-15	2015-16	2016-17	2017-18	2018-19
Land-Freehold	0.00	0.00	0.00	0.00%	0.00	0.00	0.00	0.00	0.00
Land-Lease hold	0.00	0.00	0.00	3.34%	0.00	0.00	0.00	0.00	0.00
Building, Civil Works & Colony	0.00	0.00	0.00	3.34%	0.00	0.00	0.00	0.00	0.00
Transmission Line	0.00	0.00	0.00	5.28%	0.00	0.00	0.00	0.00	0.00
Substation	1840.94	0.00	1840.94	5.28%	Spreading (12 years completed in 2009-14 tariff period)				
PLCC	0.00	0.00	0.00	6.33%	0.00	0.00	0.00	0.00	0.00
IT Equipment (Incl. Software)	0.00	0.00	0.00	15.00%	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>1840.94</b>	<b>0.00</b>	<b>1840.94</b>	<b>Total</b>	<b>50.98</b>	<b>50.98</b>	<b>50.98</b>	<b>50.98</b>	<b>50.98</b>
<b>Average Gross Block (₹ in lakh)</b>					<b>1840.94</b>	<b>1840.94</b>	<b>1840.94</b>	<b>1840.94</b>	<b>1840.94</b>
<b>Weighted Average Rate of Depreciation (WAROD)</b>					<b>(*)</b>				

(\*) Since the asset has completed 12 years of life as on 31.3.2013, the remaining depreciable value of ₹662.69 lakh as on 31.3.2013 has been spread across the balance useful life of 13 years in accordance with Regulation 27(5) of the 2014 Tariff Regulations. The annual depreciation from 2013-14 onwards is ₹50.98 lakh.

**DETAILS OF WEIGHTED AVERAGE RATE OF DEPRECIATION (WAROD)  
FOR THE 2019-24 TARIFF PERIOD**

2019-24 Capital Expenditure	Admitted Capital Cost as on 1.4.2019	Projected Additional Capitalisation during tariff period 2019-24	Admitted Capital Cost as on 31.3.2024	Rate of Depreciation as per Regulations	Annual Depreciation as per Regulations				
					2019-20	2020-21	2021-22	2022-23	2023-24
Land-Freehold	0.00	0.00	0.00	0.00%	0.00	0.00	0.00	0.00	0.00
Land-Lease hold	0.00	0.00	0.00	3.34%	0.00	0.00	0.00	0.00	0.00
Building, Civil Works & Colony	0.00	0.00	0.00	3.34%	0.00	0.00	0.00	0.00	0.00
Transmission Line	0.00	0.00	0.00	5.28%	0.00	0.00	0.00	0.00	0.00
Substation	1840.94	0.00	1840.94	5.28%	Spreading (12 years completed in 2009-14 tariff period)				
PLCC	0.00	0.00	0.00	6.33%	0.00	0.00	0.00	0.00	0.00
IT Equipment (Incl. Software)	0.00	0.00	0.00	15.00%	0.00	0.00	0.00	0.00	0.00
<b>Total</b>	<b>1840.94</b>	<b>0.00</b>	<b>1840.94</b>	<b>Total</b>	<b>50.98</b>	<b>50.98</b>	<b>50.98</b>	<b>50.98</b>	<b>50.98</b>
<b>Average Gross Block (₹ in lakh)</b>					<b>1840.94</b>	<b>1840.94</b>	<b>1840.94</b>	<b>1840.94</b>	<b>1840.94</b>
<b>Weighted Average Rate of Depreciation</b>					<b>(*)</b>				

(\*) Since the asset has completed 12 years of life as on 31.3.2013, the remaining depreciable value of ₹662.69 lakh as on 31.3.2013 has been spread across the balance useful life of 13 years in accordance with Regulation 33(5) of the 2019 Tariff Regulations. The annual depreciation from 2013-14 onwards is ₹50.98 lakh.