

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 33/TT/2019

Coram:

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

Date of Order: 07.02.2021

In the matter of:

Approval under Regulation 86 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for determination of Transmission Tariff from COD to 31.3.2019 for 1X330 MVAR, 765 kV Bus Reactor-I at 765/400 kV Varanasi GIS (Reactor shifting from Sasaram Sub-station) under "Transmission System for Phase-I Generation Projects in Jharkhand and West Bengal Part A2".

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-302005.
2. Ajmer Vidyut Vitran Nigam Ltd.,
132 kV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar,
Jaipur-302017 (Rajasthan).
3. Jaipur Vidyut Vitran Nigam Ltd.,
132 kV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar,
Jaipur-302017 (Rajasthan)
4. Jodhpur Vidyut Vitran Nigam Ltd.,
132 kV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar,
Jaipur-302017 (Rajasthan).



5. Himachal Pradesh State Electricity Board,
Vidyut Bhawan, Kumar House Complex Building II,
Shimla-171004.
6. Punjab State Electricity Board,
Thermal Shed TIA, Near 22 Phatak,
Patiala-147001.
7. Haryana Power Purchase Centre,
Shakti Bhawan, Sector-6,
Panchkula (Haryana) 134109.
8. Power Development Department,
Government of Jammu & Kashmir,
Mini Secretariat, Jammu
9. Uttar Pradesh Power Corporation Ltd.,
(Formerly Uttar Pradesh State Electricity Board),
Shakti Bhawan, 14, Ashok Marg,
Lucknow-226001.
10. Delhi Transco Ltd.,
Shakti Sadan, Kotla Road,
New Delhi-110002.
11. BSES Yamuna Power Ltd.,
B Block, Shakti Kiran Bldg.
(Near Karkardooma Court)
Karkardooma, 2nd Floor,
Delhi-110092.
12. BSES Rajdhani Power Ltd.,
BSES Bhawan, Behind Nehru Place,
New Delhi-110019.
13. Tata Power Delhi Distribution Ltd.,
33 kV Substation Building Hudson Lane,
Kingsway Camp,
North Delhi-110009
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,
PalikaKendra, Sansad Marg,
New Delhi-110002.

...Respondents

For Petitioner : Shri Amit Kumar Jain, PGCIL
Shri Nitish Kumar, PGCIL
Shri A.K. Verma, PGCIL
Shri Ved Prakash Rastogi, PGCIL

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

ORDER

The instant petition has been filed by Power Grid Corporation of India Ltd. (hereinafter referred to as “the Petitioner”) for determination of tariff for 1X330 MVAR, 765 kV Bus Reactor-I at 765/400 kV Varanasi GIS (reactor shifting from Sasaram Sub-station) under “Transmission System for Phase-I Generation Projects in Jharkhand and West Bengal Part A2” (hereinafter also referred to as “the transmission system”) for 2014-19 tariff period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as “the 2014 Tariff Regulations”).

2. The Petitioner has made the following prayers:-

“1) Approve the Transmission Tariff for the tariff block 2014-19 for the assets covered under this Petition.

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

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



4) Condone the delay in completion of subject assets on merit of the same being out of the control of Petitioner in line with CERC Regulations' 2014 12(2)(i) "uncontrollable factors"

5) Allow the Petitioner to recover the shortfall or refund the excess Annual Fixed Charges, on account of Return on Equity due to change in applicable Minimum Alternate/Corporate Income Tax rate as per the Income Tax Act, 1961 (as amended from time to time) of the respective financial year directly without making any application before the Commission as provided under clause 25 of the Tariff Regulations 2014.

6) Approve the reimbursement of expenditure by the beneficiaries towards petition filing fee, and expenditure on publishing of notices in newspapers in terms of Regulation 52 of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014, and other expenditure (if any) in relation to the filing of petition.

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

8) Allow the Petitioner to bill and adjust impact on Interest on Loan due to change in Interest rate on account of floating rate of interest applicable during 2014-19 period, if any, from the respondents.

9) Allow the petitioner to approach the Hon'ble Commission for suitable revision in the norms for O&M expenditure for claiming the impact of wage hike from 1.1.2017 onwards.

10) Allow the Petitioner to bill and recover GST on Transmission charges separately from the respondents, if GST on Transmission of electricity is withdrawn from the exempted (negative) list at any time in future. Further any taxes and duties including cess, etc. imposed by any Statutory/ Govt./ Municipal Authorities shall be allowed to be recovered from the beneficiaries.

11) Allow the tariff of present asset as claimed in the petition and allow to do the de-capitalisation from the original project and re-capitalisation in the present project at the time of truing-up of 2014-19.

12) Allow the carrying cost between the date of de-capitalisation and date of re-capitalisation at the time of truing-up.

and pass such other relief as Hon'ble Commission deems fit and appropriate under the circumstances of the case and in the interest of justice."

Background

3. The Investment Approval (IA) for implementation of the assets under "Transmission System for Phase-I Generation Projects in Jharkhand and West Bengal Part A2" was accorded by the Board of Directors of the Petitioner in its 265th meeting vide Memorandum No. C/CP/Jharkhand & West Bengal Projects (Ph-I)-Part-



A2 dated 27.12.2011 with an estimated cost for ₹242266 lakh including IDC of ₹14070 lakh based on 3rd quarter 2011 price level.

4. The Board of Directors of the Petitioner accorded approval for the Revised Cost Estimate (RCE) for the transmission system vide Memorandum No. C/CP/PA1617-03-0Z-RCE014 dated 30.3.2017 with an estimated cost of ₹264574 lakh including IDC of ₹24095 lakh based on April 2016 price level.

5. The scope of the transmission system was discussed with the regional constituents in the Standing Committee Meetings of Eastern Region and Northern Region held on 20.9.2010 and 29.12.2010 respectively as a part of the strengthening scheme for transfer of power to Eastern Region, Western Region and Northern Region. The system was also discussed in the Regional Power Committee (RPC) meetings of Eastern Region and Northern Region held on 18.12.2010 and 4.1.2011 respectively. The shifting of reactor was discussed in the 41st NRPC meeting held on 28.2.2018 wherein NRPC granted post facto approval for installation of reactor at Varanasi end.

6. The scope of work covered under the “Transmission System for Phase-I Generation Projects in Jharkhand and West Bengal Part A2” is as follows:

Transmission Line

- (i) Ranchi New (765/400 kV Sub-station)-Dharamjaygarh/ near Korba 765 kV S/C line
- (ii) Gaya-Varanasi 765 kV S/C line
- (iii) Balia-Varanasi 765 kV S/C line

Sub-station

- (i) Establishment of new 2x1500 MVA, 765/400 kV GIS sub-station at Varanasi



- (ii) Extension of 765 kV Balia, 765 kV Gaya, 765 kV Ranchi (New) and 765 kV Dharamjaygarh Sub-station.

Reactive Compensation

Line reactor

	From end (MVAR)	To end (MVAR)
Ranchi New-Dharamjaygarh 765 kV S/C	240 (Switchable)	330 (fixed)
Gaya-Varanasi 765 kV S/C	240 (Switchable)	240 (fixed)
Balia-Varanasi 765 kV S/C line	-	240 (fixed)
Gaya-Balia 765 kV S/C	240 (Switchable)	-

Bus Reactor

Varanasi 765 kV Sub-station : 1x330 MVAR

**(The 2nd 1x330 MVAR bus reactor at Varanasi would be installed by shifting 1x330 MVAR line reactor from Sasaram end of Gaya-Sasaram-Fatehpur 765 kV line.)*

7. The details of the petitions in which the assets under scope of the transmission system are covered is summarized hereunder:

Sl. No.	Assets	COD (Actual)	Petition No.
1	3x80 MVAR Switchable line Reactor for 765 kV S/C Gaya – Balia Transmission line at Gaya Sub-station,	8.1.2015	450/TT/2014
2	3x80 MVAR Switchable line Reactor for 765 kV S/C Ranchi-Dharamjaygarh Transmission Line along with associated bays at Ranchi Sub-station as Bus Reactor	21.12.2015	
3	1500 MVA, 765/400 kV ICT-1 & associated bays at Varanasi GIS Sub-station	1.4.2016	273/TT/2015
4	330 MVAR, 765 kV Bus Reactor-1 at Varanasi GIS Sub-station	1.4.2016	
5	765 kV S/C Balia-Varanasi line and associated bays including 240 MVAR Line Reactor at both end	1.4.2016	
6	1500 MVA, 765/400 kV ICT-2 & associated bays at Varanasi GIS Sub-station	15.6.2016	
7	765 kV S/C Gaya-Varanasi transmission line and associated bays including 240MVAR Line Reactor	21.4.2016	
8	765 kV S/C Ranchi - Dharamjaygarh line along with associated bays at Dharamjaygarh	26.12.2015	



9	3x80 MVAR Switchable line Reactor for 765 kV S/C Gaya - Varanasi Transmission Line as Bus Reactor along with associated bays at Gaya Sub-station	2.1.2016	223/TT/2016
10	Asset-1: 1X330 MVAR, 765 kV Bus Reactor-I at 765/400 kV Varanasi GIS (Reactor shifting from Sasaram Sub-station)*	19.4.2017	Covered under instant petition (Earlier filed in Petition No. 223/TT/2016)

8. The Petitioner had earlier filed Petition No. 223/TT/2016 for determination of tariff for 765 kV, 3X80 MVAR switchable line reactor for 765 kV S/C Gaya-Varanasi transmission line as bus reactor, along with associated bays at Gaya sub-station and 1X330 MVAR, 765 kV bus reactor-I at 765/400 kV Varanasi GIS (reactor shifted from Sasaram Sub-station) under the 2014 Tariff Regulations. However, tariff was not allowed for the 1X330 MVAR, 765 kV Bus Reactor-I at 765/400 kV Varanasi GIS (shifted from Sasaram Sub-station) by the Commission vide order dated 14.9.2017 in Petition No. 223/TT/2016 and the Petitioner was directed to file fresh petition with proper approval along with decapitalisation details. The relevant portion of the order dated 14.9.2017 in Petition No. 223/TT/2016 is extracted hereunder:

“6. Petitioner has claimed Asset-II as shifting of 1x330 MVAR line reactor from Sasaram end of Gaya-Sasaram-Fatehpur 765 kV line as 1x330 MVAR bus Reactor at Varanasi. However RPC approval for such shifting is not enclosed with the petition. Further, petitioner has not provided the details of existing line reactor at Sasaram whether it is switchable or non-switchable. In case it is switchable reactor, petitioner needs to provide details of de-capitalization of associated bay equipment.

7. The reactor shifted from Sasaram would need to be capitalized afresh as bus reactor at Varanasi, Hence petitioner should provide proper approval along with capitalization details for this Asset and file fresh petition with all these details. Hence this asset is not being considered currently”

9. Pursuant to the directions of the Commission in above-mentioned order dated 14.9.2017, the Petitioner has submitted a copy of the minutes of 41st NRPC meeting held on 28.2.2018 wherein post facto approval of NRPC was obtained for installation of the reactor at Varanasi end, in the instant petition. The relevant extract of the



minutes of the meeting held on 28.2.2018 is as follows:

“B.28 Shifting of 330 MVAR, 765 kV Bus reactor-I at 765/400 kV Varanasi GIS

TCC Deliberations:

B.28.1 POWERGRID representative stated that it was an old issue when reactive compensation was not discussed in Standing Committee as well as RPC meeting and used to be planned by CTU. He further stated that earlier Gaya-Fatehpur 765kV S/c line was 450km long line and as such for reactive power generation a 330 MVAR reactor was installed at Sasaram.

B.28.2 He said that with the LILO of Gaya – Fatehpur 765kV S/c line at Varanasi, the 330 MVAR Reactor at Sasaram was not required in the line and the same was shifted to Varanasi. He told when CERC was approached for tariff after commissioning of the reactor, CERC asked for the concurrence of RPC. Hence, it has brought up for the post facto approval of RPC.

B.28.3 MS, NRPC enquired about the cost implications of the scheme. POWERGRID representative stated that shifting cost is involved which was already included in Tariff and would be recovered through PoC.

B.28.4 MS, NRPC asked POWERGRID for the value of shifting cost which was to be intimated to the constituents. TCC recommended the proposal for approval of NRPC

NRPC Deliberations:

B.28.5 MS, NRPC briefed the committee about the issue and told that TCC has agreed for post facto approval of the commissioning of 330 MVAR reactor at Varanasi end. He further mentioned that the shifting and commissioning cost of 2 crores was intimated by POWERGRID which would go into PoC charges.

B.28.6 Chairperson, NRPC told that committee would not look into the cost aspect while shifting and commissioning of reactor. He further told that POWERGRID should have taken the approval earlier but still post facto approval would be given for the commissioning of reactor. He asked POWERGRID to approach CERC regarding cost implications upon shifting and commissioning of 330 MVAR reactor of Sasaram at Varanasi.

B.28.7 NRPC approved the post facto proposal for commissioning of reactor at Varanasi end and told POWERGRID to approach CERC where cost aspects should be examined.”

10. PGCIL, in the instant petition, has designated the reactor shifted from Sasaram sub-station to Varanasi GIS as 3X110 MVAR reactors. In CEA energisation certificate dated 29.3.2017 also, the asset is stated as 3X110 MVAR reactors. However, in the RLDC certificate dated 8.5.2017, the asset is mentioned as 1X330 MVAR reactor and accordingly in order dated 14.9.2017 in Petition No.223/TT/2016, it was stated as



1X330 MVAR reactor. To maintain uniformity in the order and to avoid confusion, the asset has been referred to as 1X330 MVAR reactor in the instant order, even though PGCIL has stated it as 3X110 MVAR reactors.

11. BRPL has submitted that 1x330 MVAR, 765 kV bus reactor at Varanasi was not included in the original scope of works and that it was included in RCE thereby changing the scope of the Investment Approval. BRPL has submitted that it is evident that the need for a 1x330 MVAR line reactor to be used as bus reactor was neither required at Sasaram end of Gaya-Sasaram 765 kV line nor at Varanasi end of the 765 kV S/C Gaya-Varanasi Transmission Line. BRPL has further submitted that there is nothing on record to show that NRPC has asked the Petitioner to provide reactive compensation at Varanasi before undertaking the execution of the subject asset in the RCE dated 30.3.2017 to have proper voltage for smooth operation of the Regional Grid under Regulation 2.4.2 of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010 (hereinafter referred to as “the Grid Code”).

12. In response, the Petitioner vide affidavit dated 17.6.2019 has submitted that the present asset is part of the Investment Approval and the same can be inferred from the DPR submitted along with the petition. The Petitioner has further submitted that shifting of reactor has been clearly mentioned in NRPC meeting held on 28.2.2018.

13. We have considered the submissions of the Petitioner and BRPL. It is observed that the instant asset was mentioned in the DPR. However, it was not mentioned in the Investment Approval. After it was pointed out by the Commission in its order dated 14.9.2017 in Petition No. 223/TT/2016, the Petitioner has obtained post facto



approval for shifting of the bus reactor from Sasaram to Varanasi in the 41st NRPC meeting held on 28.2.2018. We are in agreement with the view of NRPC that the Petitioner should have obtained the approval of NRPC before taking up the execution work. In view of post facto approval of NRPC, shifting of the bus reactor from Sasaram to Varanasi is approved as a special case. Henceforth, the Petitioner is directed to obtain prior approval of the concerned RPC before approaching the Commission for grant of tariff and while filing petition, it must include all the details like shifting of bus reactors in the Investment Approval (and not only in DPR) so as to avoid confusion.

14. The details of the Annual Transmission Charges claimed by the Petitioner for the transmission assets are as under:-

(₹ in lakh)

Particulars	Asset-1(a)		Asset-1(b)	
	2017-18	2018-19	2017-18	2018-19
Depreciation	312.81	351.06	136.75	143.84
Interest on Loan	351.80	366.22	101.12	93.07
Return on Equity	362.18	406.40	153.10	161.48
Interest on Working Capital	26.58	29.06	8.39	8.55
O & M Expenses	88.45	96.20	-	-
Total	1141.82	1248.94	399.36	406.94

15. The details of the interest on Working Capital (IWC) claimed by the Petitioner for the transmission assets are as under:-

(₹ in lakh)

Particulars	Asset-1(a)		Asset-1(b)	
	2017-18	2018-19	2017-18	2018-19
Maintenance Spares	13.97	14.43	-	-
O&M expenses	7.76	8.02	-	-
Receivables	200.32	208.16	70.01	67.82
Total	222.04	230.60	70.01	67.82
Rate of Interest	12.60%	12.60%	12.60%	12.60%
Interest on working capital	26.58	29.06	8.39	8.55



16. The Petitioner has served a copy of the petition upon the respondents and notice of this tariff application has been published in newspapers in accordance with Section 64 of the Electricity Act, 2003. No comments or suggestions have been received from the general public in response to the notices published by the Petitioner under Section 64 of the Electricity Act, 2003. Uttar Pradesh Power Corporation Ltd. (UPPCL), Respondent No.9, has filed its reply vide affidavit dated 28.2.2019 and has raised the issues of Investment Approval, Technical Approval, time over-run, cost over-run, IDC and IDEC, O&M expenses etc. BSES Rajdhani Power Ltd. (BRPL), Respondent No. 12, vide affidavit dated 16.5.2019 has filed its reply and has raised issue of approval for the instant asset, cost over-run, Transmission Service Agreement, additional capital expenditure (ACE), effective tax rate, wage revision. The Petitioner vide its affidavits dated 5.2.2020 and 17.6.2019 has filed its rejoinder to the reply of UPPCL and BRPL respectively. The issues raised by Respondents and the clarifications given by the Petitioner are considered in the relevant portions of this order.

17. The hearing of this matter was heard on 11.2.2020 and the Commission reserved the order in the Petition.

18. This order is issued after considering the submissions made by the Petitioner in the petition dated 21.12.2018, affidavits (including rejoinders) dated 1.2.2019, 17.6.2019, 12.7.2019, 5.2.2020 and 20.3.2020, and replies filed by UPPCL dated 28.2.2019 and BRPL dated 16.5.2019.

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



Date of Commercial Operation (COD)

20. The Petitioner has claimed COD of the asset, i.e. 1X330 MVAR bus reactor at 765/400 kV Varanasi GIS (reactor shifted from Sasaram sub-station) as 19.4.2017. In support of the COD of the asset, the Petitioner has submitted CEA energisation certificate dated 29.3.2017, RLDC charging certificate dated 8.5.2017 and CMD certificate as required under the Grid Code.

21. Taking into consideration the CEA energisation certificate, RLDC charging certificate and CMD certificate, COD of the asset is approved as 19.4.2017.

22. During the hearing on 18.6.2019, the Petitioner has submitted that the cost of bays, equipment, civil work, shifting and carrying cost has only been claimed in the instant Petition. The cost of reactor shifted from Sasaram has not been claimed in this petition.

23. The matter was again heard on 11.2.2020 and during the hearing, representative of the Petitioner submitted that the mid-point reactor at Sasaram sub-station was de-capitalized on 18.4.2017 and was shifted and installed as bus reactor at Varanasi sub-station w.e.f. 19.4.2017. The cost of the reactor is not included in the capital cost of the present asset and since the Petitioner has de-capitalized the gross block of the shifted reactor in the true-up Petition No. 406/TT/2020, no cost of the reactor has been included in the cost certificate of the instant petition. The Petitioner requested the Commission to allow it to submit the calculations of the shifted reactor in the instant petition or at the time of true-up of the instant petition. The Commission vide RoP (record of proceedings) of the hearing dated 11.2.2020 directed to link the instant petition along with the true-up petition of 2014-19 period for the assets



covered in “Transmission System associated with Sasan Ultra Mega Power Project”
i.e. Petition No.406/TT/2020.

24. In response, the Petitioner vide affidavit dated 20.3.2020 has submitted that the capital cost claimed vide Auditor Certificate dated 13.8.2018 in the instant petition includes the shifting cost and other cost such as switchgear, structure for switchyard, bus bar, conductors, insulator etc. and not the cost of reactor. The Petitioner has further submitted that the cost of the reactor has been de-capitalised from Petition No. 406/TT/2020 at the stage of true-up of tariff of the 2014-19 tariff period and it has submitted copy of the Auditors Certificate filed in Petition No.406/TT/2020 showing the de-capitalization of reactor cost therein.

25. Accordingly, the Petitioner has claimed the transmission tariff separately for the reactor shifted from the Sasaram to Varanasi GIS and for the elements which have been placed in Varanasi GIS for installation of the shifted reactor as detailed below:

Sl. No.	Name of Asset	COD claimed
1	Asset-1(a): Switchgear, structure for switchyard, bus bar, conductors, insulator etc. for installation of 1X330 MVAR, 765 kV Bus Reactor-I at 765/400 kV Varanasi GIS	19.4.2017 (actual)
2	Asset-1(b): 1X330 MVAR, 765 kV Bus Reactor shifted from Sasaram	1.4.2012 (actual) 19.4.2017 (re-capitalisation date)

26. The Petitioner has claimed separate tariff in respect of Asset-1(b) and submitted Auditor's certificate and tariff forms in support of its claim. The Petitioner has further submitted that the cost of reactor has been de-capitalized “Transmission System associated with Sasan Ultra Mega Power Project” in true-up of 2014-19 tariff period in Petition No. 406/TT/2020 and that the tariff for the reactor cost is being claimed in



the present project as per Auditor certificate. The Petitioner has prayed to allow the tariff of Asset-I(b) along with tariff of Asset-I(a) as claimed in the instant Petition as the cost is de-capitalized from the old project.

27. We have considered the submissions of the Petitioner. As stated above, taking into consideration the RLDC certificate, COD of the instant assets has been approved as 19.4.2017. Asset-1(a), which has been installed in Varanasi GIS on 19.4.2017, consists of new elements and it is a new asset and accordingly it has to be serviced from 19.4.2017. However, Asset-1(b), the reactor shifted from Sasaram is an existing asset as the Commission has already approved its COD as 1.4.2012 under "Transmission System associated with Sasan Ultra Mega Power Project" vide order dated 21.7.2014 in Petition No. 217/TT/2012 and accordingly tariff was granted. Moreover, the Petitioner has de-capitalised Asset-1(b) in Petition No. 406/TT/2020 and has re-capitalised it w.e.f. 19.4.2017 and has claimed separate tariff in the instant petition. Thus, Asset-1(b) which has already been granted tariff since 1.4.2012 has completed around 5 years of its useful life. Taking into consideration the submission of the Petitioner for claiming separate tariff for Asset-1(a) and Asset-1(b) and the fact that the remaining useful life of the instant assets is not the same, separate tariff is allowed for Asset-1(a) and Asset-1(b).

Capital Cost

28. Clauses (1) and (2) of Regulation 9 of the 2014 Tariff Regulations provide as follows:

"(1) The Capital cost as determined by the Commission after prudence check in accordance with this regulation shall form the basis of determination of tariff for existing and new projects"

(2) The Capital Cost of a new project shall include the following:



- (a) The expenditure incurred or projected to be incurred up to the date of commercial operation of the project;
- (b) Interest during construction and financing charges, on the loans (i) being equal to 70% of the funds deployed, in the event of the actual equity in excess of 30% of the funds deployed, by treating the excess equity as normative loan, or (ii) being equal to the actual amount of loan in the event of the actual equity less than 30% of the funds deployed;
- (c) Increase in cost in contract packages as approved by the Commission;
- (d) Interest during construction and incidental expenditure during construction as computed in accordance with Regulation 11 of these regulations;
- (e) Capitalised Initial spares subject to the ceiling rates specified in Regulation 13 of these regulations;
- (f) Expenditure on account of additional capitalization and de-capitalisation determined in accordance with Regulation 14 of these regulations;
- (g) Adjustment of revenue due to sale of infirm power in excess of fuel cost prior to the COD as specified under Regulation 18 of these regulations; and
- (h) Adjustment of any revenue earned by the transmission licensee by using the assets before COD.”

29. The Petitioner has claimed the following capital cost incurred as on COD and additional capitalisation projected to be incurred in respect of Asset-1(a) and submitted Auditor’s Certificate dated 13.8.2018 in support of the same:

Asset	FR Approved AppORTIONED Capital Cost	RCE Approved AppORTIONED Capital Cost	Capital Cost up to COD	Projected Additional Capital Expenditure			Estimated Completion Cost
				2017-18	2018-19	2019-20	
Asset-1(a)	7034.14	7543.50	6406.49	273.42	456.10	364.76	7500.77

30. The Petitioner has submitted that against the total FR approved appORTIONED cost of ₹7034.14 lakh, the estimated completion cost of Asset-1(a) is ₹7500.77 lakh. Though the estimated completion cost is more than the FR approved appORTIONED cost, the estimated completion cost is within the RCE approved appORTIONED cost.

31. The Petitioner has submitted reasons for item-wise cost variation between FR and estimated cost in detail in Form-5. The Petitioner has submitted the following reasons for variation of cost in respect of Asset-1(a):

Sl. No.	Particulars	FR	Estimated	Variation (Increase/	Reason



				Decrease +/-)	
1	Land	45.52	237.93	192.41	Based on actual cost paid to statutory authorities
2	Total Civil Works	235.48	137.33	(-)98.15	There is a decrease as per actual site condition
3	Total Sub-station Equipment	5198.00	4942.83	(-)255.17	There is a decrease based on price received in open competitive bidding
4	Total Taxes & Duties	539.24	776.78	237.54	Based on the actual taxes paid to the statutory authority
5	IEDC	585.37	359.72	(-)225.65	There is a decrease and is as per actual expenditure
6	IDC	472.08	1025.59	553.51	There is an increase based on actual loan deployment and time schedule

32. As regards the variation in cost of Asset-1(a), the Petitioner has submitted that as per policy of the Petitioner, the procurement is carried out under open competitive route by providing equal opportunity to all the eligible firms. The bid prices are invited for the complete scope of work on overall basis and the contracts are awarded to the qualified bidder, whose bid is determined as the lowest evaluated, techno-commercially responsive and, who is considered to have the capacity and capability to perform the contract based on the assessment, if carried out. Thus, the variation of awarded/ actual cost may be because of various market forces and the pricing strategies followed by bidder(s). The Petitioner has submitted that the estimated completion cost is within the RCE apportioned cost and requested to approve the estimated completed cost of ₹7500.77 lakh.

33. BRPL has submitted that the approved apportioned cost of Asset-1(a) mentioned in the petition is ₹7034.14 lakh, against which the estimated completion cost is ₹7500.77 lakh. There is cost over-run of ₹466.63 lakh and there are variations in various items as compared with the cost estimates contained in the Investment



Approval as may be perused in Form 5 enclosed with the petition. The justification filed for variations in various items is very casual and accordingly these variations may be disallowed. In response, the Petitioner reiterated the submissions made in the Petition and requested to allow capital cost of the asset as claimed in the petition.

34. UPPCL has submitted that the apportioned approved cost as per RCE dated 30.3.2017 is ₹7543.50 lakh as against the estimated completion cost of ₹7500.77 lakh. Therefore, apparently there is no cost over-run. However, there is cost variation in respect of cost of land and total taxes and duties. In response, the Petitioner vide affidavit dated 5.2.2020 has submitted that the reasons for cost variation has already been submitted in the instant petition and the estimated completion cost is within the RCE apportioned cost. Accordingly, it has requested to grant tariff on the estimated completion cost of ₹7500.77 lakh.

35. We have considered the submissions of the Petitioner and Respondents. It is observed that against the total apportioned approved cost as per RCE of Asset-1(a), the estimated completion cost including ACE is within the RCE approved apportioned cost.

Time over-run

36. As per the Investment Approval (IA) dated 27.12.2011, the transmission assets were scheduled to be executed within 32 months from the date of Investment Approval. Accordingly, the scheduled date of commercial operation comes to 27.8.2014, against which the instant assets have been put into commercial operation on 19.4.2017. Thus, there is a time over-run of 966 days.



37. The Petitioner has submitted that time over-run has occurred mainly due to delay in COD of LILO of Gaya–Fatehpur 765 kV S/C line at Varanasi and delay in receiving railway traffic block clearance from the concerned Railway Authorities. The Petitioner has submitted the following details to substantiate its claims:

(a) Delay in COD of LILO of Gaya–Fatehpur 765 kV S/C line at Varanasi (i.e. delay up to 1.4.2016)

The scheme regarding shifting of reactor from Sasaram to Varanasi was envisaged keeping in mind the need for a bus reactor to manage the varying voltage profile at 765/400 kV Varanasi sub-station once the 765 kV S/C Gaya-Fatehpur Line is LILOed at 765/400 kV Varanasi Sub-station. Earlier, Gaya-Fatehpur 765 kV S/C line was 450 km long and as such for reactive power generation, a 330 MVAR reactor was installed at Sasaram. However, after LILO of Gaya–Fatehpur 765 kV S/C line at Varanasi (COD: 1.4.2016), the 330 MVAR reactor at Sasaram was not required and the same was shifted to Varanasi. However, the completion of LILO of this 765 kV S/C Gaya-Fatehpur line at Varanasi sub-station (COD: 1.4.2016) was delayed due to pending forest clearance and acute ROW problem. The shifting of the 1X330 reactor from Sasaram sub-station and the subsequent installation as bus reactor at Varanasi sub-station could have been done only after the completion and COD of this LILO of 765 kV S/C Gaya-Fatehpur line at Varanasi sub-station. Therefore, the delay in COD of this LILO at Varanasi had a bearing on the timely completion of instant assets. Further, the delay on account of RoW issues and forest clearance upto 1.4.2016 have already been discussed and condoned vide order dated 30.5.2016 in Petition No. 277/TT/2015. The relevant portion of order dated 30.5.2016 is as follows:

“24..... Hence, keeping in view that the ROW issues and forest clearance were beyond the control of the petitioner and the petitioner took necessary steps and correspondences to cater to the issues, and the time taken for getting all other clearance are subsumed by the time taken to resolve the ROW issues and forest clearance, the period from 8.7.2013 to 21.3.2016 is condoned. Hence, the complete delay of 311 days in commissioning of Asset I and Asset-III (A) is condoned.”



The Petitioner has requested to take into account the time over-run condoned up to 1.4.2016 in order dated 30.5.2016 in Petition No.277/TT/2015.

(b) Delay on account of railway blockage clearance (i.e. delay beyond 1.4.2016)

(i) The work of the present assets could only be taken up subsequent to 1.4.2016 i.e. after COD of LILO of 765 kV S/C Gaya-Fatehpur line at Varanasi. However, the transportation activity took considerable time owing to unforeseen time consumed in receiving the railway traffic block clearance from the Railway authorities. The transportation activity took around 10 months. While shifting of reactor from Sasaram to Varanasi, on the way there is Railway crossing, namely, Howrah–Delhi main line which is one of the busiest railway link and one of the most commercially important freight corridor where operating speed is upwards of 130 kmph. It is therefore required to obtain Railway crossing shut down at Pusauli (Sasaram) Gate No 56C/2E.

(ii) Accordingly, the Petitioner had engaged L&T (the executing agency) to pursue the matter in advance so as to avoid loss of time on this account. The Petitioner and L&T had requested many times to Railway Authorities vide letters dated 21.3.2016, 4.4.2016, 25.4.2016, 30.7.2016 and 25.1.2017 to provide railway shutdown along with the detailed cost breakup/ expenses but no response was received from the Railway authorities.

(iii) Railways vide its letter ref T/PL/TBC/MGS/16 dated 15.2.2017 accorded the traffic block clearance and also asked to provide total cost for Railway block. Finally, the block was availed on 21.2.2017 and the reactor was shifted to Varanasi and declared under commercial operation w.e.f. 19.4.2017 after installation and testing. As the delay was due to above *force majeure* which is beyond the control of Petitioner in terms of Regulation 12(2)(i) “uncontrollable factors” of the 2014 Tariff Regulations.

38. The Petitioner was directed to submit, vide ROP of the hearing dated 18.6.2019, the details of time over-run and chronology of activities along with



documentary evidence as per the format given and to clarify as to how the time over-run in case of the subject assets is dependent on the LILO of 765 kV S/C Gaya-Fatehpur line at Varanasi sub-station and has affected the execution of instant assets.

39. In response, the Petitioner vide affidavit dated 12.7.2019 has submitted the following:

(i) Details of timelines:

S. N.	Activity	Schedule		Actual	
		From	To	From	To
1	Land Acquisition	23.8.2011	4.6.2012	27.7.2011	30.6.2014
2	LOA	20.8.2012	20.8.2012	26.11.2013	26.11.2013
3	Supplies	11.12.2012	21.4.2014	1.1.2015	1.7.2015
4	Civil Works	12.3.2013	26.5.2014	23.6.2014	8.5.2015
5	Erection	18.6.2013	28.7.2014	18.7.2015	5.9.2015
6	Testing & COD	29.7.2014	26.8.2014	15.3.2017	1.4.2017

(ii) The Commission has already condoned the delay up to 1.4.2016 on the said LILO vide order dated 30.5.2016 in Petition No.277/TT/2015. The 1X330 MVAR 765 kV reactors was installed as midpoint reactor on 765 kV S/C Gaya-Fatehpur line at Sasaram to provide reactive power. As per scope of the transmission system, these midpoint reactors were to be shifted from Sasaram to Varanasi end as bus reactor. Further, the aforesaid reactors could become free at Sasaram only after readiness of LILO of 765 kV S/C Gaya-Fatehpur line at Varanasi, on 1.4.2016. Subsequently, these reactors at Sasaram were shifted to Varanasi GIS sub-station and installed as 330 MVAR bus reactor at Varanasi sub-station.

40. UPPCL has requested the Commission to take a view regarding the time over-run of 966 days in respect of instant assets. The Petitioner vide affidavit dated 5.2.2020 has submitted that the reasons for delay have already been submitted in instant petition and the delay was mainly due to *force majeure* which was beyond the control of Petitioner.



41. We have considered the submissions of the Petitioner and Respondents. As per the Investment Approval dated 27.12.2011, the assets were scheduled to be put into commercial operation on 27.8.2014 against which they were put into commercial operation on 19.4.2017 after a time over-run of about 966 days. The Petitioner has submitted that the time over-run in case of instant assets was mainly due to time over-run in execution of LILO of Gaya–Fatehpur 765 kV S/C line at Varanasi and due to delay in receiving railway traffic block clearance from the Railway authorities.

42. The first reason given by the Petitioner for the time over-run is time over-run in case of the LILO of 765 kV S/C Gaya-Fatehpur Transmission Line (GFTL). As per the submissions of the Petitioner, GFTL is a 450 km line and the 1X330 MVAR 765 kV reactor was installed as midpoint reactor on GFTL at Sasaram to provide reactive power. Subsequent to implementation of LILO of GFTL, the reactor at Sasaram was not required. Hence, it was envisaged to shift the reactor from Sasaram sub-station to Varanasi GIS. Therefore, shifting of reactor from Sasaram sub-station and installation as bus reactor at Varanasi GIS could be done only after the completion and COD of LILO of GFTL at Varanasi sub-station. The scheduled COD of LILO of GFTL at Varanasi GIS was 26.5.2015. However, it achieved COD on 1.4.2016 and thus there was time over-run. The time over-run was condoned and the tariff for GFTL was allowed vide order dated 30.5.2016 in Petition No. 277/TT/2015. The Petitioner has submitted that as the time over-run in case of the LILO of GFTL has already been condoned in order dated 30.5.2016 and as the shifting of the reactor from Sasaram sub-station to Varanasi GIS could be done only after COD of LILO of GFTL, the time over-run in shifting of the reactor from Sasaram to Varanasi up to 1.4.2016 should also be condoned.



43. Thus, as per the Petitioner, shifting of reactor from Sasaram to Varanasi was dependent upon COD of LILO of GFTL. Therefore, COD of LILO of GFTL should have been before COD of the instant assets so that the reactor from Sasaram sub-station could be installed at Varanasi GIS. However, it is observed that the Investment Approval for the LILO of GFTL was granted by the Board of Directors of the Petitioner on 27.9.2012 and was scheduled to be put into commercial operation by 26.5.2015, whereas Investment Approval for shifting of reactor from Sasaram Sub-station to Varanasi GIS was granted on 27.12.2011 and it was scheduled to be put into commercial operation on 28.6.2014. Thus, SCOD of instant reactor was prior to the SCOD of LILO of GFTL. . We further note that both the schemes are covered under NRSS-XXVIII & Part A-2 relating to transmission system for Phase-I generation projects in Jharkhand and West Bengal and were approved in 29th SCM held on 29.12.2010. Logically, investment approval should have been accorded such that SCOD of LILO of GFTL should have been prior to the approval and installation of the reactors from Sasaram sub-station to Varanasi GIS. Thus, there is a clear mismatch in the planning and implementation by the Petitioner and, therefore, we are of the view that this mismatch and planning in execution of the shifting of reactors from Sasaram sub-station to Varanasi GIS is attributable to the Petitioner that has resulted in the time over-run in execution of the instant assets. Therefore, we are not inclined to condone the time over-run in case of installation of bus reactors at Varanasi GIS from the scheduled COD of 27.8.2014 to 1.4.2016, COD of LILO of GFTL.

44. As regards the delay in grant of traffic block clearance by Railway authorities, the Petitioner has submitted that LILO of 765 kV S/C Gaya-Fatehpur Line at Varanasi



was put into commercial operation on 1.4.2016. Thereafter, the bus reactor was to be shifted from Sasaram to Varanasi sub-station. While shifting of the reactor from Sasaram, there is a railway crossing and the Petitioner needed to obtain traffic block approval from Railway authorities. As regards the railway crossing traffic block clearance, the Petitioner has submitted letters of L&T (executing agency) dated 21.3.2016, 4.4.2016, 25.4.2016 and 30.7.2016 and letter dated 25.1.2017 of the Petitioner written to the Railway authorities. We have gone through the letters written by L&T to Railway authorities. It is observed that L&T was making enquiries about the charges to be paid for traffic block and did not make any specific request for traffic block clearance. The Petitioner, however, has requested the Railway authorities for traffic block clearance for the first time in its letter dated 25.1.2017. In response, the Railway authorities vide letter dated 15.2.2017 accorded the traffic block clearance and the Petitioner availed it on 21.2.2017. Subsequently, the subject reactor achieved COD on 19.4.2017. Thus, we note that the Railway authorities took about 21 days for giving the permission. We are of the view that the Railway authorities accorded traffic block clearance within a reasonable time, whereas there is considerable delay on the part of the Petitioner in approaching the Railway authorities for traffic block clearance. It is further observed from the CPM/Pert chart submitted by the Petitioner, that the Petitioner has not indicated the task of obtaining traffic block clearance from Railway authorities. The Petitioner has neither planned for a traffic block clearance nor approached the Railway authorities in time. We are of the view that the Petitioner was not prudent while planning the execution of the instant assets and the delay, if any, in receiving the traffic shut down is purely



attributable to the Petitioner. Hence, we are not inclined to condone the time over-run on this account.

45. In view of the above discussion, the total time over-run of 966 days is attributable to the Petitioner. Hence, the time over-run of 966 days is not condoned.

Interest During Construction (IDC)

46. The Petitioner has claimed Interest During Construction (IDC) of ₹1025.59 lakh for the instant Asset-1(a) and submitted Auditor's Certificate dated 13.8.2018 in support of the same. The Petitioner has submitted the statement showing IDC discharged up to COD as follows: -

(₹ in lakh)				
Asset	IDC as per Auditor's certificate	IDC discharged upto COD	IDC discharged during 2017-18	IDC discharged/ to be discharged during 2018-19
Asset-1(a)	1025.59	899.87	125.72	0.00

47. The Petitioner has submitted IDC computation statement which consists of the name of the loan, drawl date, loan amount, interest rate and Interest claimed. IDC is worked out based on the details given in the IDC statement. Further, loan amount as on COD has been mentioned in Form 6 and Form 9C. From perusal of these documents, certain discrepancies have been observed such as mismatch in loan amount between IDC statement and in Form 6 & Form 9C. The allowable IDC has been worked out based on the available information and relying on loan amount as per tariff Form 9C. However, the Petitioner is directed to submit the detailed IDC statement by rectifying the above-mentioned deviation, at the time of true up of 2014-19 for instant Asset-1(a).



48. UPPCL has submitted that the total time over-run is 31 months and 23 days out of which the delay of 311 days upto 1.4.2016 has been condoned by the Commission vide order dated 3.5.2016 in Petition No. 277/TT/2015. However, the time over-run subsequent to 1.4.2016 is under consideration before the Commission. Accordingly, proportionate IDC and IDEC for the period not condoned by the Commission during the aforesaid period may be deducted. In response, the Petitioner vide affidavit dated 5.2.2020 has submitted that the reasons for delay has already been submitted in instant petition and the delay was beyond the control of Petitioner.

49. We have considered the submission of the Petitioner and UPPCL. The time over-run in case of the Asset-1(a) has not been condoned and therefore the IDC for the period for time over-run has not been capitalised. The details of IDC considered for tariff computation, subject to revision at the true up is as below:

(₹ in lakh)				
Asset	IDC claimed as per Auditor's certificate	Allowable IDC as on COD (Accrual)	IDC disallowed due to time over-run not condoned	Allowable IDC as on COD (Cash basis)
Asset-1(a)	1025.59	219.73	805.86	219.73

Incidental Expenditure During Construction (IEDC)

50. The Petitioner has claimed IEDC of ₹359.72 lakh for instant Asset-1(a) and submitted Auditor's Certificate dated 13.8.2018 in support of the same. The details of IEDC claimed and allowed is tabulated below which shall be reviewed at the time of truing up: -

Asset	IEDC claimed vide Auditor's Certificate	IEDC Disallowed due to computational difference	IEDC Disallowed due to Time over-run	IEDC Allowed (as on COD)
Asset-1(a)	359.72	72.19	143.18	144.36



51. IEDC allowed for the Asset-1(a) will be reconsidered in the light of the directions of Appellate Tribunal for Electricity (APTEL) in judgment dated 2.12.2019 in Appeal No. 95 of 2018 and Appeal No.140 of 2018, at the time of truing up.

Initial Spares

52. This has been dealt in line with Regulation 13 of the 2014 Tariff Regulations. The Petitioner has claimed initial spares of ₹5.73 lakh corresponding to green field sub-station for instant Asset-1(a) and has submitted Auditor's Certificate dated 13.8.2018 in support of the same. The Petitioner vide affidavit dated 12.7.2019 has submitted details of year wise capitalisation and discharge of initial spares up to COD. The details of initial spares claimed by the Petitioner is as follows: -

(₹ in lakh)					
Asset		Plant and machinery Cost excluding IDC, IEDC, Land Expenditure up to 31.03.2019	Initial spares claimed	Expenditure on Initial Spare up to COD and included in Auditor Certificate	Expenditure on Initial Spare and included in add-cap of 2017-18
Asset-1(a)	Sub-station	5373.19	5.73	4.01	1.72

53. We have considered the submissions made by the Petitioner. The initial spares have been allowed for the purpose of tariff calculation considering the Plant and Machinery cost excluding IDC, IEDC and land expenses up to 31.3.2019, subject to ceiling limit of 5% as per the 2014 Tariff Regulations. Accordingly, the initial spares allowed is as under: -

(₹ in lakh)						
Asset		Plant and machinery Cost excluding IDC, IEDC, Land Expenditure up to 31.3.2019	Initial Spares claimed	Initial Spares allowed	Initial Spares allowed up to COD	Un-discharged Initial Spares as on COD
	1	2	3	5	6	7



Asset		Plant and machinery Cost excluding IDC, IEDC, Land Expenditure up to 31.3.2019	Initial Spares claimed	Initial Spares allowed	Initial Spares allowed up to COD	Un-discharged Initial Spares as on COD
	1	2	3	5	6	7
Asset-1(a)	Sub-station	5373.19	5.73	5.73	4.01	1.72

Re-capitalisation of Asset-1(b)

54. The Petitioner vide affidavit dated 20.3.2020 has submitted the revised Form-10B in respect of the Asset-1(b) as well as submitted Auditor's Certificate dated 29.11.2019 and claimed re-capitalisation of Asset-1(b) in the instant petition as per the following details:

(₹ in lakh)							
Year of decapitalisation	Year of capitalisation of asset/equipment being decapitalised	Original book value of the asset being decapitalised	Debt-Equity ratio at the time of capitalisation	Cumulative depreciation corresponding to de-capitalisation date	Cumulative repayment of loan corresponding to de-capitalisation	Net Book Value	Date of re-capitalisation claimed in the instant petition
2017-18 (18.4.2017)	2012-13 (1.4.2012)	2724.23	70:30	719.20	719.20	2005.03	19.4.2017

55. In the instant petition, the Petitioner has claimed date of re-capitalisation as 19.4.2017 and claimed the separate tariff in respect of the same having COD of 1.4.2012.

56. UPPCL has submitted that the Petitioner has claimed carrying cost between the date of de-capitalisation and date of recapitalisation at the time of true-up as the same was done for proper utilisation of the system with due concurrence in RPC with



the beneficiaries. UPPCL has submitted that it is not inclined to pay carrying cost since it is covered under the general head of O&M Expenses which is being provided under AFC for 2017-18 and 2018-19. In response, the Petitioner has submitted that there was an inadvertent error in details provided in Form 10B submitted with the petition and revised Form-10B has been submitted in the instant petition. The Petitioner has further submitted that the mid-point reactor at Sasaram sub-station was de-capitalized on 18.4.2017 at the stage of trueing up of the tariff allowed for the 2014-19 tariff period from "Transmission System associated with Sasan Ultra Mega Power Project" in Petition No. 406/TT/2020 and shifted and executed as bus reactor at Varanasi sub-station w.e.f. 19.4.2017. Further, the cost of the reactor is not included in the capital cost of present asset and has been claimed in the true-up of Petition No. 406/TT/2020.

57. It is observed that the Petitioner in its submission dated 6.7.2020 in Petition. No. 406/TT/2020 has mentioned that the mid-point reactor at Sasaram sub-station was de-capitalized on 5.3.2016 and shifted and commissioned as bus reactor at Varanasi sub-station with effect from 19.4.2017. The Commission while decapitalising the instant asset vide order dated 8.2.2021 in Petition No. 406/TT/2020 held as under:

"20. We have considered the submissions of the Petitioner and BRPL. The 3x110 MVAR, 765 kV shunt reactors at Sasaram sub-station, which achieved COD on 1.4.2012, were originally used as mid-point reactors at Sasaram sub-station and were covered under the "Transmission System associated with Sasan Ultra Mega Power Project (UMPP)". Its tariff from COD to 31.3.2014 was approved by the Commission vide order dated 21.7.2014 in Petition No. 217/TT/2012. As per the Petitioner, the instant shunt reactors were not required at Sasaram sub-station after readiness of LILO of 765 kV S/C Gaya-Fatehpur Line at Varanasi on 1.4.2016, they were shifted to Varanasi GIS sub-station and installed as 330 MVAR bus reactor at Varanasi sub-station on 19.4.2017.

21. It is observed that the Petitioner has claimed transmission tariff for the shifted reactors w.e.f. 19.4.2017 in Petition No. 33/TT/2019 under "Transmission System for Phase-I Generation Projects in Jharkhand and West Bengal Part A2" project. It is further observed that the Petitioner has de-capitalised the cost of shifted reactors in the



instant petition on 18.4.2017 and has claimed re-capitalisation of the reactors in Petition No. 33/TT/2019 w.e.f. from 19.4.2017. However, the reactors were actually removed from service on 5.3.2016 from Sasaram sub-station and recapitalised in Varanasi sub-station on 19.4.2017. Accordingly, the instant reactors were “not in use” from 5.3.2016 to 18.4.2017. As per Regulation 9(6)(a) of the 2014 Tariff Regulations, the capital cost of the assets forming part of the project but “not in use” should be excluded from the capital cost. The Regulation 9(6) of 2014 Tariff Regulations provides as under:

“6. The following shall be excluded or removed from the capital cost of the existing and new project:

- (a) The assets forming part of the project, but not in use;
 - (b) Decapitalisation of Asset;
 - (c) In case of hydro generating station 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 two stage transparent process of bidding; and
 - (d) the proportionate cost of land which is being used for generating power from generating station based on renewable energy:
- Provided that 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 shall be excluded from the Capital Cost for the purpose of computation of interest on loan, return on equity and depreciation;”.

22. In a similar case of decapitalisation of 40% FSC from Lucknow sub-station and recapitalisation in Sohawal sub-station, the Commission in order dated 28.9.2017 in Petition No.195/TT/2016, held that the assets that are shifted from one transmission system to another should be decapitalised in the books of accounts of the transmission system where the asset was originally put into commercial operation and capitalised in the books of accounts of the transmission system where it is transferred and seek fresh determination of tariff from the date of capitalisation under the transmission system where the asset is transferred. The relevant portion of order dated 28.9.2017 in Petition No. 195/TT/2016 is as under:

“6. The tariff of “40% FSC at Lucknow Sub-station” was allowed since 1.6.2007 and it has completed 10 years of its useful life. It is a case of inter-unit transfer. Since the proposed shifting of FSC from Lucknow to Sohawal is of permanent nature and as it involves two different schemes covered under different Investment Approvals, there will be a mismatch of recovery of the cost of the “40% FSC” over the 25 years. In order to address this issue, the Commission in the past has decided that in case of inter-unit transfer, the assets shall be de-capitalised in the books of accounts of the transmission system where the asset was originally commissioned and capitalised in the books of accounts of the transmission system where it is transferred. In the instant case, the 40% FSC has been transferred from Lucknow to Sohawal end. Therefore, the said assets need to be de-capitalised from the books of accounts of the assets at Lucknow and capitalised in the books of account of assets at Sohawal. The petitioner is directed to carry out the decapitalisation and corresponding capitalisation of the assets within a period of six months and claim the revised tariff of the “40% FSC” at Sohawal Substation at the time of truing-up. In so far as the expenditure involved in inter-unit transfer is concerned, this is in the nature of revenue expenditure and is allowed as a onetime pass through. Since the “40% FSC” was dismantled and shifted to Sohawal and thereafter, commissioned on 12.2.2016,



the tariff of the assets shall be determined afresh with reference to the COD as 12.2.2016. Accordingly, the petitioner after carrying out necessary de-capitalisation of the assets at Lucknow and capitalisation at Sohawal Sub-station shall seek fresh determination of the tariff with effect from 12.2.2016. Therefore, the tariff for “40% FSC at Sohawal Sub-station” is not allowed in this order.”

23. *In the instant petition, Asset-A, i.e. “3X110 MVA, 765 kV Shunt Reactors at Sasaram Sub-station” was “not in use” from 5.3.2016 to 18.4.2017. We agree with the contention of BRPL that as per Regulation 9(6) of the 2014 Tariff Regulations, assets “not in use” should be excluded from the capital cost. Accordingly, we are not inclined to grant tariff for the reactors for the period for which they were “not in use” i.e. from 5.3.2016 to 18.4.2017. Tariff for the instant reactors at Sasaram sub-station is allowed upto 5.3.2016 in this order and tariff from date of recapitalisation, 19.4.2017, in Varanasi Sub-station under the “Transmission System for Phase-I Generation Projects in Jharkhand and West Bengal Part A2” Project shall be considered in Petition No.33/TT/2019. Further, as observed in order dated 28.9.2017 in Petition No. 195/TT/2016, the expenditure involved in inter-unit transfer is in the nature of revenue expenditure and hence they will not be capitalised and shall be recovered by the Petitioner from the Respondents as a one-time pass through.”*

58. Accordingly, we have considered the date of de-capitalisation in respect of Asset-1(b) as 5.3.2016 in Petition No. 406/TT/2020 and date of re-capitalisation as 19.4.2017 in the instant petition.

59. Form-5 submitted in respect of Asset-1(a) further reveals that the Petitioner has included the amount of ₹84.22 lakh towards dismantling, shifting, transportation and re-erection in respect of Asset-1(b) (shifted reactor) in the estimated completion cost claimed for Asset-1(a). The Commission’s in order dated 28.9.2017 in Petition No. 195/TT/2016 has already held that expenditure towards shifting, dismantling and transportation are of the nature of revenue expenditure and cannot be capitalised. The expenditure incurred towards erection is capital in nature and the same is required to be capitalised. Since head-wise expenditure viz. dismantling, shifting, transportation and re-erection is not available, segregation of the amount which is to be capitalised out of the total expenditure of ₹84.22 lakh at this stage is not possible. Accordingly, amount of ₹84.22 lakh towards dismantling, shifting, transportation and



re-erection of the shifted reactor is not allowed to be capitalised and excluded from the cost of Asset-1(a) for the purpose of tariff as under:

(₹ in lakh)

Asset-1(b)		
Amount of dismantling, shifting, transportation and re-erection of the shifted reactor deducted from the Capital cost as on COD	Amount of dismantling, shifting, transportation and re-erection of the shifted reactor deducted from the Additional Capital Expenditure for 2017-18	Total
5.68	78.54	84.22

60. The Petitioner is allowed to recover the amount of ₹84.22 lakh towards dismantling, shifting, transportation and re-erection of the shifted reactor directly from the beneficiaries covered under the instant petition as a one-time exercise. The Petitioner is directed to furnish all the details/ information of amount recovered on this account at the time of truing-up exercise.

Capital cost

61. Accordingly, the capital cost allowed as on COD under Regulation 9(2) of the 2014 Tariff Regulations is summarized as under:

(₹ in lakh)

Asset	Capital Cost as on COD as per Auditor's Cost Certificate	Less: IDC disallowed due to excess claim/ time overrun	Less: IEDC disallowed due to excess claim/ time overrun	Less: un-discharged Initial spares up to COD	Less: Amount of dismantling, shifting, transportation and re-erection of the shifted reactor	Capital Cost as on COD considered for tariff calculation
	1	2	3	4	5	6=1-2-3-4-5
Asset-1(a)	6406.49	805.86	215.36	1.72	5.68	5377.87

(₹ in lakh)

Asset	Original COD	Date of re-capitalisation claimed in the instant petition	Original book value of the asset being recapitalised	Corresponding cumulative depreciation as on date of de-capitalisation	Corresponding cumulative repayment as on date of de-capitalisation
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Asset	Original COD	Date of re-capitalisation claimed in the instant petition	Original book value of the asset being recapitalised	Corresponding cumulative depreciation as on date of de-capitalisation	Corresponding cumulative repayment as on date of de-capitalisation
Asset-1(b)	1.4.2012	19.4.2017	2724.23	649.61	649.61

Additional Capital Expenditure (ACE)

62. As per Clause (13) of Regulation 3 of the 2014 Tariff Regulations, the cut-off date for instant assets is 31.3.2019. The Petitioner has submitted Auditor's Certificate in support of ACE for 2017-18, 2018-19 and 2019-20 for Asset-1(a) as under: -

Asset	Additional Capital Expenditure claimed			Total
	2017-18	2018-19	2019-20	
Asset-1(a)	273.42	456.10	364.76	1094.28

(₹ in lakh)

63. The Petitioner has claimed ACE during 2017-18, 2018-19 and 2019-20 in respect of Asset-1(a). Since FY 2019-20 falls beyond the tariff period 2014-19 and is not covered under the 2014 Tariff Regulations, the projected ACE claimed beyond 2018-19 has not been taken into consideration and the same shall be dealt during the 2019-24 tariff period as per extant Tariff Regulations.

64. UPPCL has submitted that the Petitioner be directed to submit year-wise and item-wise liability flow statement so that appropriateness of additional capital expenditure can be examined. In response, the Petitioner submitted that element-wise liability details have been submitted in Form 5 along with the instant petition. Similarly, year-wise liability discharge has also been submitted in Form 7 in the instant petition.

65. BRPL has submitted that the accrual IDC amounting to ₹43.71 lakh be disallowed as there is no provision of ACE under Regulation 14(1)(i) of the 2014



Tariff Regulations. In response, the Petitioner has submitted that accrued IDC as on COD was not considered while calculating the tariff as the same was un-discharged up to COD. The accrued IDC has been taken out of COD expenditure and added in ACE when it has been discharged and is covered under Regulation 14(1)(i) of 2014 Tariff Regulation and requested to allow IDC on the basis of cash outflow.

66. We have considered the submissions of the Petitioner, UPPCL and BRPL.

The ACE allowed are summarised below which is subject to true up: -

(₹ in lakh)			
Asset-1(a)	Regulation	2017-18	2018-19
Particulars			
ACE to the extent of Balance & Retention Payment and Unexecuted work	14 (1) (i) & (ii)	273.42	456.10
Add: Initial spares discharged	14 (1)(i)	1.72	0.00
Less: Amount of dismantling, shifting, transportation and re-erection of the shifted reactor		78.54	0.00
Total ACE allowed		196.60	456.10

Capital cost for the tariff period 2014-19

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

(₹ in lakh)				
Asset	Capital Cost as on COD considered for tariff calculation	ACE allowed during 2017-18	ACE allowed during 2018-19	Total Estimated Completion Cost up to 31.3.2019
Asset-1(a)	5377.87	196.60	456.10	6030.57
Asset-1(b)	2724.23*	NA	NA	2724.23

*Gross Block Value as the date of to re-capitalisation

Debt-Equity Ratio

68. Debt-Equity Ratio is considered as per Regulation 19 of the 2014 tariff Regulations. The financial package up to COD as submitted in Form 6 has been considered to determine the debt-equity ratio in respect of Asset-1(a). With regard to



Asset-1(b), the debt-equity ratio of 70.05:29.95 prevailing on the date of de-capitalization and allowed in Petition No. 406/TT/2020 has been considered. The debt-equity as on dates of commercial operation and 31.3.2019 considered on normative basis are as under: -

Asset-1(a)	As on COD		As on 31.3.2019	
Particulars	(₹ in lakh)	%	(₹ in lakh)	%
Debt	3764.51	70.00%	4221.40	70.00%
Equity	1613.36	30.00%	1809.17	30.00%
Total	5377.87	100.00%	6030.57	100.00%
Asset-1(b)	As on the date of Re-capitalisation		As on 31.3.2019	
Particulars				
Debt	1908.32	70.05%	1908.32	70.05%
Equity	815.91	29.95%	815.91	29.95%
Total	2724.23	100.00%	2724.23	100.00%

69. Based on the above, tariff in respect of the instant assets from the date of COD/ re-capitalisation date (19.4.2017) to 31.3.2018 (period of 347 days in 2017-18) and annual tariff for 2018-19 is determined in subsequent paragraphs.

Return on Equity (ROE)

70. The Petitioner has submitted that in respect of Asset-1(a), ROE has been calculated at the rate of 19.61% after grossing up ROE with MAT rate of 20.961%. The Petitioner has further submitted that the grossed-up ROE is subject to truing up based on the effective tax rate of respective financial year applicable to the Petitioner. With regard to Asset-1(b), the Petitioner has claimed ROE at the rate of 19.705% and 19.758% after grossing up ROE with MAT rate of 21.342% and 21.549% for the year 2017-18 and 2018-19 respectively.

71. BRPL has submitted that the Petitioner has mentioned the effective tax rate of 20.96% in Form 3 for each year of tariff period for which no details have been



furnished. It further submitted that the Petitioner may be directed to furnish complete details in the working of effective tax rate along with tax audit report for financial year 2014-15. 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. Accordingly, the Petitioner may also be directed to clarify whether it is charging the tax amount on deferred tax liabilities materializing during the period 20014-19 or it is grossing up such tax amount with effective tax rate which is not in accordance with Regulations. It has further submitted that Petitioner is also entitled for Tax Holiday under Section 80IA of the Income Tax Act, 1961 and the Petitioner is required to disclose the date from which it intends to claim the benefits of Section 80IA of the Income Tax Act, 1961. In response, the Petitioner has submitted that it is availing tax benefits under provisions of Section 80IA of Income Tax Act, 1961 for computing normal income tax. However, under Section 115JB of Income Tax Act, 1961, it is liable for payment of Minimum Alternate Tax (MAT) @18.5% plus Surcharge and Cess as applicable. It has further submitted that as per Regulation 25(3) of the 2014 Tariff Regulations, any over/under recovery of grossed up rate on RoE shall be adjusted at the time of truing up on the basis of actual tax paid including interest and additional demand by the IT authorities. Audit report shall be submitted on completion of assessment and the same shall be taken care while filing truing up. As per Regulation 49 of the 2014 Tariff Regulations, the deferred tax liability before 1.4.2009 shall be recovered from the beneficiaries or the long term transmission customers/ DICs as the case may be, as and when the same gets materialized. As the present asset is under 2014-19, the same is not applicable.



72. We have considered the submissions made by the Petitioner and the BRPL. Regulation 24 read with Regulation 25 of the 2014 Tariff Regulations provides for grossing up of RoE with the effective tax rate for the purpose of return on equity. It further provides that in case the generating company or transmission licensee is paying Minimum Alternative Tax (MAT), the MAT rate including surcharge and cess will be considered for the grossing up of return on equity. Accordingly, MAT rate of 21.342% and 21.549% for the year 2017-18 and 2018-19 as applicable to the Petitioner has been considered for the purpose of return on equity for both the assets, which shall be trued up with actual tax rate in accordance with Regulation 25(3) of the 2014 Tariff Regulations.

73. Accordingly, ROE allowed is as follows: -

Particulars	Asset-1(a)		Asset-1(b)	
	2017-18 (Pro-rata- 347 days)	2018-19	2017-18 (Pro-rata- 347 days)	2018-19
Opening Equity	1613.36	1672.34	815.91	815.91
Addition due to Additional Capitalization	58.98	136.83	0.00	0.00
Closing Equity	1672.34	1809.17	815.91	815.91
Average Equity	1642.85	1740.76	815.91	815.91
Return on Equity (Base Rate)	15.50%	15.50%	15.50%	15.50%
MAT rate	21.3416%	21.5488%	21.3416%	21.5488%
Rate of Return on Equity (Pre-tax)	19.705%	19.758%	19.705%	19.758%
Return on Equity (Pre-tax)	307.76	343.94	152.85	161.21

Interest on Loan (IOL)

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



- (i) Gross amount of loan, repayment of instalments and rate of interest on actual loans have been considered as per petition including additional information.
- (ii) The yearly repayment for the tariff period 2014-19 has been considered to be equal to the depreciation allowed for that year.
- (iii) Weighted average rate of interest on actual average loan worked out as per (i) above is applied on the notional average loan during the year to arrive at the interest on loan.

75. The Petitioner has submitted that IOL has been claimed on the basis of rate prevailing as on COD and the change in interest due to floating rate of interest applicable, if any, needs to be claimed/ adjusted over the tariff block 2014-19.

76. UPPCL has submitted that the loan portfolios negotiated by the Petitioner do not bear any element of floating rate of interest and, therefore, there is no occasion for the application of floating rate of interest. In response, the Petitioner has submitted that for SBI loan, floating rate of interest have been deployed in the instant case and accordingly, it has prayed to allow it to bill and adjust impact on interest on loan due to change in rate of interest on account of floating rate of interest.

77. We have considered the submissions of Petitioner and UPPCL. We have calculated IOL on the basis of rate prevailing as on the date of commercial operation. Any change in rate of interest subsequent to the date of commercial operation will be considered at the time of truing-up. IOL is allowed considering all the loans submitted in Form-9C. The Petitioner is directed to reconcile the total Gross Loan for the calculation of weighted average Rate of Interest and for the calculation of IDC, which would be reviewed at the time of truing-up.

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



(₹ in lakh)		
Asset-1(a)	2017-18	2018-19
Particulars	(Pro-rata 347 days)	
Gross Normative Loan	3764.51	3902.13
Cumulative Repayment upto previous Year	0.00	264.58
Net Loan-Opening	3764.51	3637.55
Addition due to Additional Capitalization	137.62	319.27
Repayment during the year	264.58	294.74
Net Loan-Closing	3637.55	3662.08
Average Loan	3701.03	3649.81
Weighted Average Rate of Interest on Loan	8.46%	8.42%
Interest on Loan	297.49	307.47

(₹ in lakh)		
Asset-1(b)	2017-18	2018-19
Particulars	(Pro-rata 347 days)	
Gross Normative Loan	1908.32	1908.32
Cumulative Repayment up to 5.3.2016	649.61	786.36
Net Loan-Opening	1258.71	1121.97
Addition due to Additional Capitalization	0.00	0.00
Repayment during the year	136.75	143.84
Net Loan-Closing	1121.97	978.13
Average Loan	1190.34	1050.05
Weighted Average Rate of Interest on Loan	9.50%	9.51%
Interest on Loan	107.53	99.82

Depreciation

79. Depreciation has been dealt with in line of Regulation 27 of 2014 Tariff Regulations. Depreciation has been calculated annually based on Straight Line Method at the rates specified in Appendix-II to the 2014 Tariff Regulations.

80. Details of the depreciation allowed are as under: -

(₹ in lakh)		
Asset-1(a)	2017-18	2018-19
Particulars	(Pro-rata-347 days)	
Opening Gross Block	5377.87	5574.47
Additional Capital expenditure	196.60	456.10
Closing Gross Block	5574.47	6030.57
Average Gross Block	5476.17	5802.52
Rate of Depreciation	5.0821%	5.0795%



Depreciable Value	4748.52	5042.21
Remaining Depreciable Value at the beginning of the year	4748.52	4777.63
Depreciation	264.58	294.74

(₹ in lakh)

Asset-1(b)	2017-18	2018-19
Particulars	(Pro-rata-347 days)	
Opening Gross Block	2724.23	2724.23
Additional Capital expenditure	0.00	0.00
Closing Gross Block	2724.23	2724.23
Average Gross Block	2724.23	2724.23
Rate of Depreciation	5.2800%	5.2800%
Depreciable Value	2451.81	2451.81
Elapsed Life at the beginning of the year**	4	5
Remaining Depreciable Value at the beginning of the year	1802.20	1665.45
Depreciation	136.75	143.84

** While arriving at Elapsed life, period wherein asset was not in use has not been considered

Operation and Maintenance Expenses (O&M Expenses)

81. The Petitioner has claimed the O&M expenses for Asset-1(a) as per following details:

(₹ in lakh)

Asset	Particulars	2017-18	2018-19
		(Pro-rata-347 days)	
Asset-1(a): 1X330MVAR,765kVBusReactor-I at 765/400 kV Varanasi GIS (Reactor shifting from Sasaram S/S) (excluding Reactor Cost)	O&M Expenses	88.45	96.20

82. The Petitioner in the instant petition has submitted that O&M expense norms for the tariff period 2014-19 had been arrived on the basis of normalized actual O&M Expenses during the period 2008-09 to 2012-13. The Petitioner has further submitted that the wage revision of the employees is due during 2014-19 and actual impact of



wage hike effective from a future date has not been factored in fixation of the normative O&M rates specified for the tariff block 2014-19. The Petitioner has submitted that it would approach the Commission for suitable revision in norms for O&M Expenses for claiming the impact of wage hike during 2014-19, if any.

83. BRPL has submitted that increase in employee cost, if any, due to wage revision must be taken care by increasing the productivity levels of the Petitioner and the beneficiaries should not be burdened over and above the provisions in the 2014 Tariff Regulations. In response, the Petitioner has submitted that O&M expenses for the tariff period 2014-19 had been arrived at on the basis of normalized actual O&M Expenses during the period 2008-09 to 2012-13 and actual impact of wage hike effective from a future date has not been factored in fixation of the normative O&M rates specified for the 2014-19 tariff period. The Petitioner has submitted that the wage revision of the employees of the Petitioner company has been implemented during 2014-19 and actual impact of wage hike which will be effective from a future date has also not been factored in fixation of the normative O&M rates prescribed for the 2014-19 tariff period. The scheme of wage revision applicable to CPSUs being binding on the Petitioner, the Petitioner reserves the right to approach the Commission for suitable revision in the norms for O&M expenditure for claiming the impact of wage hike during 2014-19 onwards. Accordingly, prayer has been made for suitable revision in the norms for O&M expenditure for claiming the impact of wage hike, if any, during period 2014-19. Hence the same may please be considered.

84. UPPCL has submitted that there is only one 765 kV bay at Varanasi which was put into commercial operation on 19.4.2017, its O&M Expenses for 2017-18 is ₹93.110 lakh. Therefore, the proportionate O&M for 2017-18 for 346 days is ₹88.26



lakh as against which the Petitioner has claimed O&M of ₹88.45 lakh. The Petitioner is required to rectify the figures of O&M for 2017-18 in respect of the instant asset. In response, the Petitioner has submitted that that O&M has been claimed as per the 2014 Tariff Regulations and requested to allow the same.

85. Norms for O&M Expenses for Transmission System have been specified under section 29 (4) of Tariff Regulation are as follows: -

Element	2017-18	2018-19
Sub-station: 765 kV bay (₹ in lakh per bay)	93.11	96.20

86. We have considered the submissions of Petitioner and Respondents. The O&M Expenses have been worked out as per the norms specified in the 2014 Tariff Regulations. As regards the impact of wage revision, any application filed by the Petitioner in this regard will be dealt with in accordance with the appropriate provisions of the 2014 Tariff Regulations. The Petitioner has computed normative O&M Expenses as per sub-clause (a) of clause (4) of Regulation 29 of the 2014 tariff regulations. Accordingly, the allowed O&M Expenses is given below:-

		(₹ in lakh)	
Asset	Details	2017-18 (Pro-rata- 347 days)	2018-19
Asset-1(a)	1No. of 765 kV line bay at Varanasi Sub-Station	88.45	96.20
	Total O&M Expenses Allowed	88.45	96.20

Interest on Working Capital (IWC)

87. As per the 2014 Tariff Regulations, the components of the working capital and the interest thereon are discussed hereinafter: -

a) Maintenance spares:



Maintenance spares @15% of Operation and maintenance expenses specified in Regulation 29.

b) O & M Expenses:

Operation and maintenance expenses have been considered for one month of the O&M expenses.

c) Receivables:

The receivables have been worked out on the basis of 2 months of annual fixed cost as worked out above.

d) Rate of interest on working capital:

As per Clause 28(3) of the 2014 Tariff Regulations, SBI Base Rate as on 1.4.2017(9.10%) plus 350 bps i.e. 12.60% has been considered as the rate of interest on working capital.

88. Accordingly, the IWC is summarized as under: -

Particulars	(₹ in lakh)			
	Asset-1(a)		Asset-1(b)	
	2017-18 (Pro-rata- 347 days)	2018-19	2017-18 (Pro-rata- 347 days)	2018-19
Maintenance Spares	13.96	14.43	0.00	0.00
O&M expenses	7.75	8.02	0.00	0.00
Receivables	172.07	177.93	71.11	68.92
Total	193.78	200.38	71.11	68.92
Rate of Interest	12.60%	12.60%	12.60%	12.60%
Interest on working capital	23.21	25.25	8.52	8.68

Annual Transmission charges

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

Particulars	(₹ in lakh)			
	Asset-1(a)		Asset-1(b)	
	2017-18 (Pro-rata- 347 days)	2018-19	2017-18 (Pro-rata- 347 days)	2018-19
Depreciation	264.58	294.74	136.75	143.84
Interest on Loan	297.49	307.47	107.53	99.82



Particulars	Asset-1(a)		Asset-1(b)	
	2017-18 (Pro-rata- 347 days)	2018-19	2017-18 (Pro-rata- 347 days)	2018-19
Return on Equity	307.76	343.94	152.85	161.21
Interest on Working Capital	23.21	25.25	8.52	8.68
O&M Expenses	88.45	96.20	0.00	0.00
Total	981.50	1067.59	405.64	413.55

Filing fee and the publication expenses

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

License fee and RLDC Fees and Charges

91. The Petitioner has prayed to allow the Petitioner to bill and recover License fee and RLDC fees and charges, separately from the respondents. UPPCL has submitted that license fee is onus of the Petitioner. In response, the Petitioner has submitted that fees and charges to be paid by the Petitioner as ISTS licensee (deemed ISTS licensee) under CERC (Fees and Charges of RLDC and other matters) Regulations, 2014 as amended from time to time shall also be recoverable from the DICs as provided under Regulation 52(2) (a) of 2014 Tariff Regulation.

92. We have considered the submissions of the Petitioner and UPPCL. We are of the view that the Petitioner shall be entitled for reimbursement of license fee and RLDC fees and charges in accordance with Clause (2)(b) and (2)(a) of Regulation 52 in the 2014 Tariff Regulations.



Goods and Services Tax

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

Transmission Service Agreement (TSA)

94. The Respondent, BRPL, vide affidavit dated 16.5.2019 has submitted that the Petitioner has not filed the 'Transmission Service Agreement' between the Transmission Licensee and the Designated Inter-State Customers as per provisions of Regulation 3(63) of the 2014 Tariff Regulations. The discussions during the NRPC meetings cited by the Petitioner cannot be treated as the 'Transmission service Agreement' under Regulation 3(63) of the 2014 Tariff Regulations as these bodies are statutorily not empowered to approve the Transmission Service Agreement nor all the Discoms who are expected to pay for such tariff are its members. The Petitioner may be directed to file the 'Transmission service Agreement' as per provisions of Regulation 3(63) of the 2014 Tariff Regulations.

95. In response the Petitioner vide affidavit dated 17.6.2019 has submitted a copy of the Model TSA dated 19.8.2011 entered into between the Petitioner and BRPL.

96. We have considered the submissions of Petitioner and BRPL. It is observed that the Petitioner has complied with the 2010 Sharing Regulations by entering into a TSA with BRPL and has also complied with the requirement of the TSA.

Sharing of Transmission Charges

97. UPPCL has submitted that the total available capacity in Jharkhand and WBSEDCL is 3820 MW out of which 3510 MW can be spared by them. Out of this



power, NR will get 1680 MW. UPPCL has directed the Petitioner to submit the sharing of this power by the beneficiaries of Northern Region as per MoP so that UPPCL can know the quantum of additional power available from the Jharkhand and West Bengal for which it will share the transmission charges of the lines of the Petitioner under transmission system for Ph-1 generation projects in Jharkhand and West Bengal Part A-2.

98. In response, the Petitioner has submitted that present project is a common system strengthening scheme for transfer of power from Phase-I generation in Jharkhand and West Bengal and Tariff for Transmission of Electricity (Annual Fixed Cost) shall be shared as per Regulation 43 of the 2014 Tariff Regulations. These charges shall be recovered on monthly basis and billing, collection and disbursement of transmission charges shall be governed by provision of Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010.

99. We have considered the submissions of the Petitioner and UPPCL. The transmission charges shall be recovered on monthly basis in accordance with Regulation 43 of the 2014 Tariff Regulations and shall be shared by the beneficiaries and long-term transmission customers in Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010 as amended from time to time.

100. This order disposes of Petition No. 33/TT/2019.

Sd/
(I. S. Jha)
Member

Sd/
(P. K. Pujari)
Chairperson

