

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 337/TT/2019

Coram:

**Shri P. K. Pujari, Chairperson
Shri I. S. Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member**

Date of order : 13.05.2021

In the matter of:

Approval under Regulation 86 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and revision of transmission tariff of 2001-04, 2004-09 and 2009-14 tariff periods and truing up of transmission tariff of 2014-19 tariff period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 and determination of transmission tariff of 2019-24 tariff period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for LIL0 of 220 kV S/C Panki-Naubasta Transmission Line at Kanpur in the Northern Region.

And in the matter of:

Power Grid Corporation of India Ltd.,
SAUDAMINI, Plot No-2,
Sector-29, Gurgaon-122001 (Haryana).

.....Petitioner

Vs.

1. Rajasthan Rajya Vidyut Prasaran Nigam Ltd.,
Vidyut Bhawan, Vidyut Marg, Jaipur-302005 (Rajasthan).
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,
The Mall, 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.,
BSES Bhawan, Nehru Place,
New Delhi.
12. BSES Rajdhani Power Ltd.,
BSES Bhawan, Nehru Place,
New Delhi
13. Tata Power Delhi Distribution Ltd.,
33 kV Sub-station, 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,
Palika Kendra, Sansad Marg,
New Delhi-110002.

...Respondent(s)

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

For Respondent: Shri R. B. Sharma, Advocate, BRPL
Ms. Megha Bajpayee, BRPL

ORDER

The instant petition has been filed by Power Grid Corporation of India Limited for revision of transmission tariff of 2001-04, 2004-09 and 2009-14 tariff periods, truing up of transmission tariff of the period from 1.4.2014 to 31.3.2019 under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as “the 2014 Tariff Regulations”) and for determination of tariff under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (hereinafter referred to as “the 2019 Tariff Regulations”) for the period from 1.4.2019 to 31.3.2024 of LILO of 220 kV S/C Panki-Naubasta Transmission Line at Kanpur in Northern Region (hereinafter referred to as “the transmission asset”).

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

“1) Approve the revised Transmission Tariff for 2001-04 block, 2004-09 block and transmission tariff for 2009-14 block for the assets covered under this petition, as per para 8 above.

2) Approve the trued up Transmission Tariff for 2014-19 block and transmission tariff for 2019-24 block for the assets covered under this petition, as per para 9 and 10 above.

3) 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 regulation'19 as per para 9.0 & 10 above for respective block.

4) 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.

5) 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.

6) Allow the petitioner to bill and adjust impact on Interest on Loan due to change in Interest rate on account of floating rate of interest applicable during 2019-24 period, if any, from the respondents.

7) Allow the petitioner to file a separate petition before Hon'ble Commission for claiming the overall security expenses and consequential IOWC on that security expenses as mentioned at para 10.5 above.

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

9) 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 Hon'ble Commission deems fit and appropriate under the circumstances of the case and in the interest of justice."

Background

3. The brief facts of the case are as under:

- a. The Petitioner was entrusted with the implementation of Transmission System associated with Unchahar Thermal Power Station Stage-II in Northern Region including LILO of 220 kV S/C Panki-Naubasta Transmission Line. The revised administrative approval and expenditure sanction for Unchahar Transmission System was accorded by the Central Government, Ministry of Power vide letter dated 31.7.2001 at an estimated cost of ₹13515 lakh, including IDC of ₹1193 lakh for the Unchahar Transmission System



based on 1st quarter of 2000 price level. The apportioned approved cost of the transmission line is ₹950.00 lakh. The date of commercial operation of the transmission line of 29.72 ckt-km length is 1.10.2003.

- b. The tariff for the transmission asset from 1.10.2003 to 31.3.2004 was approved *vide* order dated 21.6.2005 in Petition No. 60/2003; for the period from 1.4.2004 to 31.3.2009 *vide* orders dated 28.4.2006 and 22.1.2007 in Petition No. 102/2005, and for the period from 1.4.2009 to 31.3.2014 *vide* order dated 16.12.2010 in Petition No. 147/2010. The tariff for 2009-14 period was trued up and tariff of the period from 1.4.2014 to 31.3.2019 was determined *vide* order dated 14.3.2016 in Petition No. 194/TT/2014.
- c. The Petitioner has sought revision of transmission tariff approved for 2001-04 and 2004-09 tariff periods on account of change in Interest on Loan (IoL) and Interest on Working Capital (IWC) to the extent of revision in IoL and in Maintenance Spares in terms of Appellate Tribunal for Electricity (“APTEL”) judgment dated 22.1.2007 and dated 13.6.2007 in Appeal No. 81/2005 and batch cases and Appeal No. 139/2006 and batch matters respectively. The Petitioner has sought consequential revision of tariff allowed for 2009-14 period, truing up of tariff of 2014-19 tariff period and determination of tariff of 2019-24 tariff in respect of the transmission asset.
- d. APTEL, *vide* judgements dated 22.1.2007 in Appeal No. 81/2005 and other related Appeals and judgement dated 13.6.2007 in Appeal No. 139/2006 and batch matters pertaining to generating stations of NTPC decided mainly on the following issues:

- (a) Computation of interest on loan
- (b) Consequences of refinancing of loan



- (c) Depreciation as deemed repayment
 - (d) Admissibility of depreciation up to 90% of the value of the assets
 - (e) Consideration of maintenance of spares for working capital
 - (f) Depreciation of assets.
- e. The Commission and certain beneficiaries filed Appeals against the APTEL's judgments before the Hon'ble Supreme Court in 2007. The Appeals were admitted and initially stay was granted by the Hon'ble Supreme Court. Subsequently, on an assurance by NTPC that the issues under Appeal would not be pressed for implementation during the pendency of the Appeals, the stay was vacated by the Hon'ble Supreme Court.
- f. The Petitioner based on the APTEL's judgments dated 22.1.2007 and dated 13.6.2007, sought revision of tariff of its transmission assets for tariff periods 2001-04 and 2004-09 in Petition No. 121/2007. The Commission after taking into consideration the pending Appeals before the Hon'ble Supreme Court adjourned the matter sine die and directed to revive the same after disposal of the Civil Appeals by the Hon'ble Supreme Court.
- g. The Hon'ble Supreme Court dismissed the said Civil Appeals filed against the APTEL's said judgments *vide* its judgment dated 10.4.2018.
- h. Consequent to the Hon'ble Supreme Court's judgment dated 10.4.2018 in NTPC matters, the Petition No. 121/2007 was listed for hearing on 8.1.2019. The Commission, *vide* order dated 18.1.2019 in Petition No. 121/2007, directed the Petitioner to submit its claim separately for the assets at the time of filing of truing up petitions for the period 2014-19 in respect of concerned transmission assets.



- i. The instant petition was heard on 24.3.2021 and in view of APTEL's judgments dated 22.1.2007 and 13.6.2007 and the judgement of Hon'ble Supreme Court dated 10.4.2018, tariff is being revised. Period-wise tariff is being re-worked based on the Tariff Regulations applicable for the respective tariff periods, suitable assumptions have been made at certain places and applied, which are indicated.
- j. The capital cost of ₹805.87 lakh as on COD was approved by the Commission *vide* order dated 21.6.2005 in the Petition No. 60/2003 for the period from 1.10.2003 to 31.3.2004. The tariff from 1.10.2003 was worked out based on the admitted capital cost of ₹805.87 lakh. Accordingly, considering the admitted capital cost of ₹805.87 lakh, tariff is being revised for the 2001-04, 2004-09, 2009-14 tariff periods in terms of the APTEL's judgements dated 22.1.2007 and dated 13.6.2007.

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

5. 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 by the Petitioner. Uttar Pradesh Power Corporation Ltd. (UPPCL), Respondent No.9, has filed its reply *vide* affidavit dated 15.10.2019 and has raised issues of revision of tariff, debt-equity ratio, computation of IoL, computation of RoE, computation of effective tax rate for 2014-19 period and computation of grossed up RoE for 2019-24 period. In response, the Petitioner *vide* affidavit dated 23.3.2021 has filed rejoinder to the reply



of UPPCL. BSES Rajdhani Power Limited (BRPL), Respondent No.12, has filed reply vide affidavit dated 29.1.2020 regarding revision of tariff, deferred tax liability for 2009-14 and 2014-19 tariff periods and effective tax rate. In the course of hearing the matter on 24.3.2021, learned counsel for BRPL requested that the arguments advanced by him in Petition No. 358/TT/2019 on the issues of revision of tariff, tax during 2009-14 tariff period, tax on transmission business during 2014-19 tariff period, Indian Accounting Standards, suggestions on procedural guidelines in truing up of tariff matters may also be considered in the present petition. Learned counsel further requested that reply filed by BRPL in Petition No. 358/TT/2019 may also be considered for the present petition. In response, the Petitioner vide affidavit dated 23.3.2021 has filed its rejoinder to the reply of BRPL.

6. As regards the submissions of BRPL to consider its arguments and reply filed in Petition No. 358/TT/2019 on the issues of revision of tariff, tax during 2009-14 tariff period, tax on transmission business during 2014-19 period, and Indian Accounting Standards have already been dealt by us in detail in our recent orders and they do not require fresh consideration. We will, however, deal with issues raised by BRPL in its reply filed in the present petition.

7. The hearing in this matter was held on 24.3.2021 and the Commission reserved order in the matter.

8. This order is being issued in the light of the the averments made by the Petitioner in its petition dated 30.7.2019 and Petitioner's affidavit dated 22.7.2020, reply filed by UPPCL and BRPL alongwith. rejoinders thereto by the Petitioner.

9. We have heard both the parties and perused the materials brought on the record.



10. The Petitioner has sought revision of the computation of the IoL, maintenance spares for working capital and depreciation allowed for 2001-04 and 2004-09 periods on the basis of judgements of APTEL dated 22.1.2007 in Appeal No. 81 of 2005 and batch cases and dated 13.6.2007 in Appeal No.139/2006 and batch matters. APTEL while dealing with the issue of computation of IoL, in judgement dated 22.1.2007, observed that IoL for the period from 1.4.1998 to 31.3.2001 shall be computed only on normative loan repayment as per its judgement dated 14.11.2006 in Appeal Nos. 94 and 96 of 2005. APTEL in its judgement dated 14.11.2006 set aside the Commission's methodology of computation of loan on the actual repayment basis or normative repayment, whichever is higher. The relevant portions of the judgement of 14.11.2006 is as under:

- “12. We have heard the arguments of the Senior Counsel(s) of appellant and respondents. We notice that the appellant has not challenged the formula for computing the annual repayment amount as provided in Appeal No. 96 of 2005 & IA No.117 of 2006 in Appeal No. 94 of 2005 para-22 of the impugned order and has only challenged the provisions at para 23 specifying that the amount of annual repayment for calculation of interest on loan is chosen higher of the normative debt and actual debt.*
- 13. As mentioned earlier the servicing of the capital (equity or debt) is financed by the recovery of interest on debt capital and through earning of return on equity capital. The actual loan repayment has been normalized to 50% of the total capital by the formula in para 22 of the impugned order given in para 11 above. Once it has been decided and agreed that the financing plan would be based on normative debt–equity ratio of 50:50 and not the actual debt-equity ratio, the same normative basis should be adopted for recovery of cost of servicing the capital.*
- 14. In the instant case since the normative debt-equity ratio of 50:50 has been adopted in the financing plan, the loan repayment should be computed based on normative debt. This is to ensure that whatever normative debt has been considered, tariff should ensure the recovery of the same normative debt and interest thereon.”*
- “18. In its Tariff Regulation of 2004 the Central Commission perhaps recognizing the aforesaid anomaly has dispensed with the practice of adopting higher of actual or normative repayment and has corrected the method of determination of quantum of debt repayment only on the basis of the normative debt with effect from 01.04.2004*
- 19. In view of the above, the Central Commission is required to adopt normative debt repayment methodology for working out the interest on loan liability for the period 01.04.1998 to 31.03.2001.”*



11. In view of above, the interest allowed for 2001-04 and 2004-09 periods is revised on the basis of the normative debt repayment methodology.

12. APTEL in judgement dated 13.6.2007 in Appeal No.139 of 2006 and others held that additional capital expenditure (ACE) after the date of commercial operation should also be considered for computation of maintenance spares as under:

“Analysis and Decision

We are not inclined to agree with the contention of the respondents that escalation of 6% will take care of the additional capitalization. Escalation is meant to factor inflation and is allowed as per CERC Regulations whether or not additional capitalization takes place. Question before us is that: can the historical cost be frozen with the Commissioning of the station. It is quite normal and prudent to ensure earliest operation of the plant without necessarily 100% completion of plants and works, of course not at the cost of safety of the plant. Adding some of the plants and works after the commercial operation will reduce interest during construction. If technically it is possible to delay some of the plants or works, it is only prudent to do so. For example it is common to build redundancies in the plant at a little later stage. CERC’s own regulations rightly recognized additional capitalization. It is pertinent to set out excerpts pertaining to additional capitalization from CERC (Terms & Conditions of Tariff) Regulation, 2004 Clause 18 as below:-

“Additional capitalization (1) The following capital expenditure within the original scope of work actually incurred after the date of commercial operation and up to the cut off date may be admitted by the Commission, subject to prudence check:

- (i) Deferred liabilities*
- (ii) Works deferred for execution*
- (iii) Procurement of initial capital spares in the original scope of work, subject to ceiling specified in regulation 17.*
- (iv) Liabilities to meet award of arbitration or for compliance of the order or decree of a court; and*
- (v) On account of change in law.*

Provided that original scope of work along with estimates of expenditure shall be submitted along with the application for provisional tariff.

Provided further that a list of the deferred liabilities and works deferred for execution shall be submitted along with the application for final tariff after the date of commercial operation of the generating station.”

It is clear from the abovementioned Clause 18 of the CERC Regulations that additional capitalization after the date of commercial operation is recognized as part of the capital expenditure. Historical cost does not literally mean that the cost on the date of the commercial operation. The term historical cost is used so as to distinguish it from ‘book value’ or ‘the replacement cost’. The cost of maintenance spares limited to 1% of the historical cost corresponds to the plant and equipment and installations which are required to be maintained. If the cost of additional equipment is not included in the historical cost, how spares for the additional equipment be procured for



maintenance of the additional equipment. In this view of the matter, the CERC needs to examine afresh in the light of the aforesaid observations.”

13. In view of above, the maintenance spares to be considered for computation of working capital for 2001-04 and 2004-09 periods are also required to be revised taking into consideration the ACE after the date of commercial operation. There is ACE during 2004-09 tariff period which has necessitated a revision in maintenance spares.

14. As regards the depreciation, APTEL in its judgement dated 13.6.2007 in Appeal No.139 of 2006 and batch matters observed that depreciation is an expense and it cannot be deployed for deemed repayment of loan and accordingly directed the Commission to compute the outstanding loan afresh. The relevant portion of the judgement is as under:

“Analysis and Decision

In the orders of this Tribunal dated November 14, 2006 and January 24, 2007 it has been laid down that the computation of outstanding loan will be on normative basis only (instead of normative or actual whichever is higher). In view of this there is no question of any adjustment of the depreciation amount as deemed repayment of loan.

It is to be understood that the depreciation is an expense and not an item allowed for repayment of loan. If a corporation does not borrow, it would not mean that the corporation will not be allowed any depreciation. Depreciation is an expense it represents a decline in the value of asset because of use, wear or obsolescence. The Accounting Principles Board of USA defines depreciation as under:

“The cost of a productive facility is one of the costs of the service it renders during its useful economic life. Generally accepted accounting principles require that this cost be spread over the expected useful life of the facility in such a way as to allocate it as equitably as possible to the periods during which services are obtained from the use of the facility. This procedure is known as depreciation accounting, a system of accounting which aims to distribute the cost or other basic value of tangible capital assets, less salvage (if any), over the estimated useful life of the unit (which may be a group of assets) in a systematic and rational manner. It is a process of allocation, not of valuation”

It is well established that the depreciation is an expense and therefore, it cannot be deployed for deemed repayment of loan. In this view of the matter the CERC shall need to make a fresh computation of outstanding loan in the light of the aforesaid observations.”



15. Accordingly, in view of above directions of APTEL, the outstanding loan allowed in respect of the transmission asset for 2001-04 and 2004-09 periods is revised in the instant order.

16. We have considered the submissions. The revision of tariff allowed for 2001-04 and 2004-09 tariff periods necessitates the revision of tariff allowed for 2009-14 period, which is also allowed in the instant order. The implementation of the directions of APTEL in case of the Petitioner was kept pending awaiting for the outcome of the Civil Appeals filed before the Hon'ble Supreme Court. We have further considered the interest of the consumers. We are of the view that the beneficiaries should not be burdened with the carrying cost for the difference in the tariff allowed earlier and allowed in the instant order for 2001-04, 2004-09 and 2009-14 tariff periods. Therefore we direct that the Petitioner will neither claim nor pay any carrying cost from/to the beneficiaries for the difference, if any, in the tariff allowed earlier and the tariff being allowed in the instant order. Further, the said difference in tariff shall be recovered/ paid over a period of six months from the date of issue of this order.

17. UPPCL has submitted that revision of tariff for 2001-04, 2004-9 and 2009-14 tariff periods has been undertaken on the basis of the APTEL's judgment dated 22.1.2007 and dated 13.6.2007 in Appeal No. 81/2005 and batch matters and Appeal No. 139/2006 and batch cases respectively. However, the Petitioner has not submitted both the judgements and forms for revision of tariff for 2001-04, 2004-09 and 2009-14 periods are not legible.

18. In response, the Petitioner has submitted that APTEL judgments were submitted in Petition No. 255/TT/2019. It was again submitted by the Petitioner through its rejoinder affidavit dated 21.8.2020 to the reply filed by UPPCL in Petition



No. 473/TT/2019. The Petitioner has submitted that Excel forms for revision of tariff of 2001-04, 2004-09 and 2009-14 periods have been submitted on e-filing portal and illegible tables can be seen there in Excel forms.

19. We have considered the above submissions of the Petitioner and UPPCL. The judgments of APTEL covering the subject matter of present appeals are public documents.. Moreover, the Petitioner has submitted the same alongwith the rejoinder to the reply of UPPCL. Therefore, UPPCL's contention is devoid of any merit.. It is further observed that the Forms submitted by the Petitioner in the filing portal are legible, based on which the instant order is issued.

20. BRPL has objected to the revision of tariff of 2001-04, 2004-09 and 2009-14 periods based on the APTEL's judgements. BRPL has submitted that the Petitioner claimed revision of tariff on the strength of Commission's order dated 6.11.2019 in Petition No. 288/TT/2019 and batch matters and further that Commission's order dated 6.11.2019 was based on judgment of Hon'ble Supreme Court in the matter of U.P. Power Corporation Limited Vs. National Thermal Power Corporation Limited reported in (2009) 6 SCC 235. It is pointed out that the Commission in its said order dated 6.11.2019 referred to only a portion of the judgment instead of referring the full judgment. It is argued that the Hon'ble Supreme Court in its said judgment, in essence, observed that the claim is permissible only when the tariff is in force and not afterwards. It is submitted that the Commission may re-examine this issue once again only after taking note of the full judgment of Hon'ble Supreme Court. It is reiterated that Commission should re-visit its order dated 6.11.2019 in Petition No. 288/TT/2019 and batch matters in view of the facts and legal position as propounded by the said judgment of Hon'ble Supreme Court.



21. In response, the Petitioner has submitted that the above objections of BRPL were considered by the Commission vide order dated 31.7.2020 in Petition No. 288/TT/2019 and vide order dated 5.3.2021 in Petition No. 290/TT/2020. However, after considering the above objections of the BRPL, the Commission allowed revision of tariff for 2001-04, 2004-09 and 2009-14 tariff periods.

22. We have considered the above submissions of the Petitioner and BRPL. Relevant portion of our order date 6.11.2019 in petition number 288/TT/2019 has been referred. Relevant extract of the order dated 6.11.2019 is as under:

“11. We have examined the above contentions of the parties. It is apparent from the record that the Central Commission and other beneficiaries filed Civil Appeal No. 5622 of 2007 and batch before the Hon’ble Supreme Court against the judgment dated 22.1.2007 in Appeal No. 81 of 2005 and other related appeals and judgment dated 13.6.2007 in Appeal No. 139 of 2006 of Appellate Tribunal for Electricity. In the meantime, the Petitioner filed a Petition No. 121 of 2007 in the year 2007 for extending the benefit of judgements dated 22.1.2007 and 13.6.2007 of the Appellate Tribunal in the case of appeals filed by NTPC, on the issue of (a) Computation of Interest on Loan, (b) Consequence of Refinancing of Loan, (c) Depreciation as Deemed Repayment, (d) Admissibility of Depreciation with specific reference to the interpretation of Tariff Regulations as propounded in Appellate Tribunal’s Judgments. As the said appeals against the Appellate Tribunal’s Judgments were then pending adjudication before Hon’ble Supreme Court, the Commission adjourned the proceedings sine die in Petition No. 121 of 2007 vide RoP dated 12.8.2008. The relevant portion of the ROP dated 12.8.2008 is extracted hereunder:-

“4. Request made by the learned counsel was allowed by the Commission. The application was adjourned sine die. The applicant may get the application revived after decision of the Hon’ble Supreme Court in the appeals pending”

This was done for the reason that the regulations as interpreted by Appellate Tribunal were under challenge before the Hon’ble Supreme Court. The Hon’ble Supreme Court vide order dated 10.4.2018 dismissed Civil Appeal No. 5622 of 2007 and batch filed by the Commission and other beneficiaries. Thus, the Appellate Tribunal’s Judgments attained finality. As the spirit of the regulations in question has authoritatively been interpreted in the Appellate Tribunal’s Judgments, the Commission is duty bound to apply the regulations uniformly to all without any discrimination. Accordingly, on dismissal of the said appeals by the Hon’ble Supreme Court, the Commission disposed of Petition No. 121 of 2007 vide order dated 18.1.2019 permitting the Petitioner to submit their claims, wherever applicable, along with truing up petitions for the 2014-19 period.

“6. Considering the submissions of the learned counsel for the petitioner, we dispose of the present petition with the direction that the petitioner shall separately submit its claim in the light of the APTEL’s judgments dated 22.1.2007 and 13.6.2007



alongwith the truing up petitions wherever applicable to be filed for the period 2014-19 in respect of concerned transmission assets.”

It is well settled law that an order or judgment from which review and/or appeal is allowed but not preferred by the aggrieved party attains finality. The said principle cannot be applied to the instant petitions as during the pendency of Petition No.121 of 2007, the Petitioner was not in a position to take up other legal remedies available to it under the law. Thus, we do not agree with the contentions of learned counsel for BRPL and BSPHCL that the present petitions cannot be entertained as the final orders passed therein have attained finality. In our opinion, the present matter significantly differs with the settled law wherein uniform treatment based regulations as interpreted by higher Courts is required to be given effect to without any discrimination to meet the ends of justice. For these reasons, we reject the said contentions of BRPL andBSPHCL and hold that in the facts and circumstances of this case, the general law that an order or judgment from which review and/or appeal is allowed but not preferred by the aggrieved party attains finality is not applicable here.”

23. In view of the above, assigning reasoning further for the revision is not required.

REVISION OF TRANSMISSION CHARGES ALLOWED FOR 2001-04, 2004-09 AND 2009-14 TARIFF PERIODS

2001-04 Period

24. The Commission vide order dated 21.6.2005 in Petition No. 60/2003 approved the following transmission charges in respect of the transmission asset for the period from COD to 31.3.2004:

Particulars	(₹ in lakh)	
	2003-04 (Pro-rata 6 months)	
Depreciation		11.55
Interest on Loan		7.72
Return on Equity		50.15
Advance against Depreciation		0.00
Interest on Working Capital		2.19
O & M Expenses		23.18
Total		94.79

25. The Petitioner has claimed the following revised transmission charges in respect of the transmission asset for 2001-04 period in this petition:



(₹ in lakh)

Particulars	2003-04 (Pro-rata 6 months)
Depreciation	11.55
Interest on Loan	7.72
Return on Equity	50.15
Advance against Depreciation	0.00
Interest on Working Capital	2.19
O & M Expenses	23.18
Total	94.79

26. We have considered the Petitioner's claim. The tariff is allowed in respect of the transmission asset on the basis of the following:

- a) Admitted capital cost of ₹805.87 lakh for the transmission asset as on 1.10.2003.
- b) Weighted Average Rate of Interest on actual loan adopted from order dated 21.6.2005 in the Petition No. 60/2003.
- c) Weighted Average Rate of Depreciation, Rate of Interest for Working Capital and O&M Expenses as per order dated 21.6.2005 in the Petition No. 60/2003.

27. There is no ACE in 2001-04 tariff period. Hence, there is no need to revise the maintenance spares component for calculating IWC.

28. In view of above, the revised transmission charges allowed for the transmission asset for 2001-04 tariff period are as follows:

(₹ in lakh)

Particulars	2003-04 (Pro-rata 6 months)
Depreciation	11.55
Interest on Loan	7.72
Return on Equity	50.15
Advance against Depreciation	0.00
Interest on Working Capital	2.19
O & M Expenses	23.18
Total	94.79



29. The AFC allowed for 2001-04 tariff period *vide* order dated 21.6.2005 in Petition No. 60/2003, the revised AFC claimed in the instant petition and AFC allowed in this order are given below:

Particulars	(₹ in lakh)	
	2003-04 (Pro-rata 6 months)	
AFC approved <i>vide</i> orders dated 21.6.2005 in Petition No. 60/2003	94.79	
Claimed by the Petitioner in the instant petition	94.79	
Allowed after true-up in the instant order	94.79	

2004-09 Period

30. The Commission *vide* orders dated 28.4.2006 and 22.1.2007 in the Petition No. 102/2005 approved the following transmission charges in respect of the transmission asset for 2004-09 period:

Particulars	(₹ in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
Depreciation	23.35	23.59	23.59	23.59	23.59
Interest on Loan	14.72	12.97	10.94	8.90	6.86
Return on Equity	87.88	88.00	88.00	88.00	88.00
Advance against Depreciation	0.00	0.00	0.00	0.00	0.00
Interest on Working Capital	4.70	4.79	4.88	4.97	5.07
O & M Expenses	62.99	65.51	68.15	70.84	73.71
Total	193.64	194.87	195.56	196.31	197.24

31. The Petitioner has claimed the following revised transmission charges for the transmission asset for 2004-09 period in this petition:

Particulars	(₹ in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
Depreciation	23.35	23.59	23.59	23.59	23.59
Interest on Loan	15.73	16.01	15.34	14.00	12.67
Return on Equity	87.88	88.00	88.00	88.00	88.00
Advance against Depreciation	0.00	0.00	0.00	0.00	0.00
Interest on Working Capital	4.74	4.88	4.99	5.10	5.22
O&M Expenses	62.99	65.51	68.15	70.84	73.71
Total	194.69	197.98	200.07	201.53	203.19



32. We have considered the Petitioner's claim. The tariff is allowed for the transmission asset on the basis of following:

- a) Admitted capital cost of ₹805.87 lakh in respect of the transmission asset as on 1.4.2004.
- b) Weighted Average Rate of Interest on actual loan adopted from orders dated 28.4.2006 and 22.1.2007 in Petition No. 102/2005.
- c) With respect to calculation of IoL for 2004-05 and 2005-06, moratorium period was availed by the Petitioner and no actual repayment of loan was done. The Commission vide orders dated 28.4.2006 and 22.1.2007 in Petition No. 102/2005 considered depreciation provided during 2004-05 and 2005-06 periods as loan repayment. Therefore, depreciation provided during 2004-05 and 2005-06 periods has been considered as loan repayment in accordance with Regulation 56(i)(f) of the 2004 Tariff Regulations. The relevant extract of Regulation 56(i)(f) of the 2004 Tariff Regulations provides as follows:

“27 (i) Interest on Loan Capital

(f) In case any moratorium period is availed of by the transmission licensee, depreciation provided for in the tariff during the years of moratorium shall be treated as repayment during those years and interest on loan capital shall be calculated accordingly;”

- d) Weighted Average Rate of Depreciation, Rate of Interest for Working Capital and O&M Expenses as per orders dated 28.4.2006 and 22.1.2007 in Petition No. 102/2005.

33. There is ACE of ₹8.18 lakh during 2004-09 period and as such the maintenance spares component for calculating IWC is required to be revised.

34. In view of above, the revised transmission charges allowed for the transmission asset for 2004-09 tariff period are as follows:

Particulars	(₹ in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
Depreciation	23.35	23.59	23.59	23.59	23.59
Interest on Loan	14.72	12.97	11.46	10.46	9.46
Return on Equity	87.88	88.00	88.00	88.00	88.00
Advance against Depreciation	0.00	0.00	0.00	0.00	0.00
Interest on Working Capital	4.70	4.80	4.90	5.01	5.13



O & M Expenses	62.99	65.51	68.15	70.84	73.71
Total	193.64	194.88	196.10	197.91	199.89

35. The AFC allowed for 2004-09 tariff period *vide* orders dated 28.4.2006 and 22.1.2007 in Petition No. 102/2005, the revised AFC claimed in the instant petition and AFC allowed in the instant order are as follows:

Particulars	(₹ in lakh)				
	2004-05	2005-06	2006-07	2007-08	2008-09
AFC approved <i>vide</i> orders dated 28.4.2006 and 22.1.2007 in the Petition No. 102/2005	193.64	194.87	195.56	196.31	197.24
Claimed by the Petitioner in the instant petition	194.69	197.98	200.07	201.53	203.19
AFC allowed after true-up in the instant order	193.64	194.88	196.10	197.91	199.89

2009-14 Period

36. The Commission *vide* order dated 16.12.2010 in Petition No. 147/2010 approved the tariff for the transmission asset for 2009-14 period and *vide* order dated 14.3.2016 in Petition No. 194/TT/2014 trued up the tariff of the 2009-14 tariff period that was earlier allowed *vide* order dated 16.12.2010 and the same is as follows:

Particulars	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	42.75	42.75	42.75	42.75	42.75
Interest on Loan	4.00	1.08	0.00	0.00	0.00
Return on Equity	117.38	121.68	121.80	121.80	123.27
Interest on Working Capital	7.29	7.54	7.75	8.00	8.29
O & M Expenses	77.36	81.78	86.47	91.41	96.63
Total	248.78	254.83	258.78	263.96	270.94

37. The Petitioner has claimed the following revised transmission charges for the transmission asset for the 2009-14 period in the instant petition:

Particulars	(₹ in lakh)				
	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	42.75	42.75	42.75	42.75	42.75
Interest on Loan	10.16	6.47	2.78	0.47	0.00
Return on Equity	117.38	121.68	121.80	121.80	123.27
Interest on Working Capital	7.42	7.65	7.81	8.01	8.29



O & M Expenses	77.36	81.78	86.47	91.41	96.63
Total	255.07	260.33	261.61	264.44	270.94

38. BRPL has submitted that it is unable to verify the claims of deferred tax liability as the Petitioner has failed to share the same. BRPL has further sought clarification whether the Petitioner is grossing up deferred tax amount while billing to the beneficiaries.

39. In response, the Petitioner has submitted that Regulation 39 of the Tariff Regulations, 2009 provides that deferred tax liability before 1.4.2009 shall only be recovered directly from the beneficiaries, as grossing up of RoE with effective tax rates allowed w.e.f. 1.4.2009. The Petitioner has further submitted that it has only claimed the reimbursement of income tax liability discharged as per the provisions of Income Tax Act, 1961. The Petitioner has clarified that the deferred tax liability materialized up to 31.3.2014 has been claimed till date and claim for deferred tax materialized for 2014-19 tariff period is yet to be claimed. The Petitioner has submitted that required documents alongwith Auditor's Certificate and deferred tax liability bills have been submitted. The Petitioner has clarified that deferred tax liability billed/materialized is not considered while grossing up the RoE.

40. We have considered the submissions of the Petitioner and BRPL. The tariff is allowed in respect of the transmission asset on the basis of the following:

- a) Admitted capital cost of ₹814.05 lakh as on 1.4.2009.
- b) Weighted Average Rate of Interest on actual loan derived / adopted from order dated 14.3.2016 in Petition No. 194/TT/2014.
- c) Weighted Average Rate of Depreciation as per order dated 14.3.2016 in Petition No. 194/TT/2014.
- d) No ACE during 2009-14 period.



41. In view of above, the revised transmission charges allowed for the transmission asset for 2009-14 tariff period are as follows:

(₹ in lakh)					
Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	42.75	42.75	42.75	42.75	42.75
Interest on Loan	7.12	3.44	0.79	0.00	0.00
Return on Equity	117.38	121.68	121.80	121.80	123.27
Interest on Working Capital	7.36	7.59	7.77	8.00	8.29
O & M Expenses	77.36	81.78	86.47	91.41	96.63
Total	251.96	257.24	259.59	263.96	270.94

42. The AFC allowed for 2009-14 period *vide* order dated 16.12.2010 in Petition No. 147/2010 and subsequently *vide* order dated 14.3.2016 in Petition No. 194/TT/2014, the revised AFC claimed in the instant petition and AFC allowed in the instant order are given below:

(₹ in lakh)					
Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
AFC approved <i>vide</i> order dated 16.12.2010 in Petition No. 147/2010 and subsequently <i>vide</i> order dated 14.3.2016 in Petition No. 194/TT/2014	248.78	254.83	258.78	263.96	270.94
AFC claimed by the Petitioner in the instant petition	255.07	260.33	261.61	264.44	270.94
AFC allowed in the instant order	251.96	257.24	259.59	263.96	270.94

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

43. The details of the trued up transmission charges claimed by the Petitioner for the transmission asset are as follows:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	42.75	42.75	15.21	15.21	15.21
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	123.36	123.93	123.86	123.86	124.20
Interest on Working Capital	8.74	8.91	8.45	8.62	8.81
O & M Expenses	88.92	91.87	94.93	98.06	101.34
Total	263.77	267.46	242.45	245.75	249.56



44. The details of the trued up IWC claimed by the Petitioner for the transmission asset are as follows:

Particular	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
O & M Expenses	7.41	7.66	7.91	8.17	8.45
Maintenance Spares	13.34	13.78	14.24	14.71	15.20
Receivables	43.96	44.58	40.41	40.96	41.59
Total Working Capital	64.71	66.02	62.56	63.84	65.24
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
Interest on Working Capital	8.74	8.91	8.45	8.62	8.81

Capital Cost as on 1.4.2014

45. The capital cost of ₹814.05 lakh as on 1.4.2014 admitted by the Commission vide order 14.3.2016 in Petition No. 194/TT/2014 has been claimed as opening capital cost as on 1.4.2014 by the Petitioner for determination of tariff. No ACE has been claimed by the Petitioner during 2014-19 period. Accordingly, the capital cost of ₹814.05 lakh as on 1.4.2014 has been considered to true up the tariff of the 2014-19 tariff period in accordance with Regulation 9(3) of the 2014 Tariff Regulations.

Debt-Equity ratio

46. UPPCL has submitted that capital cost for the period 2014-19 is ₹814.07 lakh. Accordingly, the normative debt equity ratio of 70:30 means debt of ₹569.85 lakh and equity of ₹244.22 lakh. However, the Petitioner has claimed debt equity ratio of 22.21:77.79 based on which the debt works out to ₹179.00 lakh and equity of ₹628.59 lakh. UPPCL has submitted that the Petitioner should be directed to submit debt-equity ratio as is indicated in cost estimate as per the Investment Approved of the Board of Directors.

47. In response, the Petitioner has submitted that debt-equity ratio as approved by the Commission vide order dated 14.3.2016 in Petition No. 194/TT/2014 has been



considered. The Petitioner has also placed on record the copy of Investment Approval as approved by the Board of Directors.

48. We have considered the above 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. Accordingly, the debt-equity ratio of 22.78:77.22 for the period ending on 31.3.2014, has been considered for the purpose of determination of tariff for 2014-19 tariff period. The details of the debt-equity ratio as on 1.4.2014 and 31.3.2019 of the transmission asset are as follows:

Particulars	Capital Cost as on 1.4.2014 (₹ in lakh)	(%)	ACE during 2014-19 (₹ in lakh)	(%)	Total Capital Cost as on 31.3.2019 (₹ in lakh)	(%)
Debt	185.46	22.78	0.00	70.00	185.46	22.78
Equity	628.59	77.22	0.00	30.00	628.59	77.22
Total	814.05	100.00	0.00	100.00	814.05	100.00

Depreciation

49. The Gross Block during the tariff period 2014-19 has been depreciated at Weighted Average Rate of Depreciation (WAROD).

50. UPPCL has submitted that capital cost for depreciation during 2014-19 tariff period will be ₹814.07 lakh. This consists of ₹566.28 lakh of cost of transmission line, ₹199.28 lakh of cost of sub-station and ₹23.65 lakh of cost of PLCC and weighted average life of the equipment works out to be 32 years and balance useful life of the transmission asset will be 20 years. UPPCL has submitted that remaining un-



depreciated value for 2016-17 period is ₹304.14 lakh and, therefore, depreciation during balance life per year will be ₹15.21 lakh.

51. We have considered the submissions of UPPCL. The WAROD at Annexure-1 has been worked out after taking into account the depreciation rates of assets as specified in the 2014 Tariff Regulations. The transmission asset has completed more than 12 years of useful life as on 1.4.2016. Accordingly, for computation of depreciation, the remaining depreciable value at the beginning of the year is spread over the balance useful life of the asset as per Regulation 27(5) of the 2014 Tariff Regulations. The details of the depreciation allowed for 2014-19 tariff period are as follows:

	(₹ in lakh)				
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation					
Opening Gross Block	814.05	814.05	814.05	814.05	814.05
ACE	0.00	0.00	0.00	0.00	0.00
Closing Gross Block	814.05	814.05	814.05	814.05	814.05
Average Gross Block	814.05	814.05	814.05	814.05	814.05
Weighted average rate of Depreciation (WAROD) (%)	5.25	5.25	1.86	1.86	1.86
Balance useful life of the asset (Year)	22	21	20	19	18
Lapsed life (Year)	10	11	12	13	14
Depreciable Value	732.65	732.65	732.65	732.65	732.65
Depreciation during the year	42.75	42.75	15.21	15.21	15.21
Cumulative Depreciation	385.76	428.51	443.72	458.92	474.13
Remaining Depreciable Value	346.88	304.14	288.93	273.72	258.51

52. The details of depreciation approved *vide* order dated 14.3.2016 in Petition No. 194/TT/2014, depreciation claimed by the Petitioner and trued up in the instant order are as follows:

	(₹ in lakh)				
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 14.3.2016 in Petition No. 194/TT/2014	42.75	42.75	15.21	15.21	15.21
Claimed by the Petitioner in the	42.75	42.75	15.21	15.21	15.21



instant petition					
Allowed after true-up in this order	42.75	42.75	15.21	15.21	15.21

Interest on Loan (IoL)

53. The Petitioner has not claimed any IoL as entire loan has already been repaid before 1.4.2014. Accordingly, IoL has been considered as nil for the purpose of tariff.

Return on Equity (RoE)

54. The Petitioner has claimed RoE 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 the following effective tax rates for the 2014-19 tariff period:

Year	Claimed effective tax rate (in %)	Grossed up ROE [Base Rate/(1-t)] (in %)
2014-15	21.018	19.625
2015-16	21.382	19.715
2016-17	21.338	19.705
2017-18	21.337	19.705
2018-19	21.549	19.758

55. UPPCL has submitted that debt equity ratio as per Investment Approval is not known and therefore the Commission should take normative debt equity ratio of 70:30 instead of actual debt equity ratio of 22.78:77.22 based on the judgment of APTEL in Appeal No. 139 of 2007 and batch matters. UPPCL has submitted that if normative equity is not taken, beneficiary will have to pay extra RoE of ₹379.30 lakh during 2014-19 period, the details of which are given in the table given under para 5(v) of the reply of UPPCL. UPPCL has further submitted that the figures of effective tax percentage for the years 2016-17, 2017-18 and 2018-19 supplied by the Petitioner, the Income Tax Authorities have not issued any Assessment Orders for them and as such they cannot be taken as authentic.



56. The Petitioner has submitted that opening equity as approved by the Commission *vide* order dated 14.3.2016 in Petition No. 194/TT/2014 has been considered. We have considered the submissions of Petitioner and UPPCL. Opening equity approved by the Commission *vide* order dated 14.3.2016 in Petition No. 194/TT/2014 has been considered by the Petitioner and as such submission of UPPCL on this count is rejected.

57. The Petitioner has submitted that effective rate of tax considered for 2014-15, 2015-16 and 2016-17 are based on Assessment Order issued by Income Tax Authorities for the purpose of grossing up of RoE rate. The Petitioner has submitted that 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 of RoE rate of respective years. The Petitioner has submitted that so far it has been granted true-up tariff for 2014-19 period by the Commission *vide* order dated 18.4.2020 in Petition No. 247/TT/2019, *vide* order dated 27.4.2020 in Petition No. 274/TT/2019, *vide* order dated 23.4.2020 in Petition No. 245/TT/2019 and *vide* order dated 16.4.2020 in Petition No. 307/TT/2019 for transmission assets under the respective petitions, where following effective tax rate based (for tariff block 2014-19) on notified MAT rates are considered for the purpose of grossing-up of RoE:

Year	Notified MAT rates (inclusive of surcharge & cess)	Effective tax (in %)	Grossed up RoE [Base Rate/(1-t)] (in %)
2014-15	20.961	20.961	19.611
2015-16	21.342	21.342	19.706
2016-17	21.342	21.342	19.706
2017-18	21.342	21.342	19.706
2018-19	21.549	21.549	19.758

58. Accordingly, tariff for each year of the 2014-19 tariff period is being determined by the Commission considering the above Effective Tax percentage to arrive at



grossed up RoE. In view of above, the Petitioner has submitted that grossed up RoE (in %) and effective tax rate for the 2014-19 tariff period has already been determined by the Commission and requested to allow the differential tariff on account of the trued up RoE based on effective tax rate calculated on completion of IT assessment/re-assessment for the years 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19 on receipt of the respective assessment orders, directly from the beneficiaries, on year to year basis as provided in the 2014 Tariff Regulations.

59. BRPL points out that the Petitioner has mentioned the effective tax rate only for 2014-15 and 2015-16 periods. However, the actual tax paid on income from other business activities of the Petitioner like the Consulting, Communication, Planning and Designing of the national/international projects etc. are required to be excluded for the computation of the effective tax rate which has not been done by the Petitioner. It is has submitted that all such information is required to be submitted alongwith the details and only thereafter the Petitioner may be allowed the differential tariff claimed on account of trued up RoE based on effective tax rate for 2014-15 and 2015-16. It is argued that true up for the balance period of 2014-19 period can be done only after the information needed for true up is submitted by the Petitioner.

60. In response, the Petitioner has submitted that that it does not file income tax return on transmission business in respect of a particular region as the Company has single PAN and there is no provision in the Income Tax Act, 1961 to file separate returns on the basis of nature of business being undertaken by any entity. All the documents in support of income tax (either returns or assessment orders) are for the Petitioner's Company as a whole. The Auditor's Certificate is clearly showing income from transmission and income from other segments along with copy of assessment



order/income return which are relevant to derive the effective tax rate has already been submitted *vide* affidavit dated 10.8.2020 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 the 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. BRPL has submitted that it is unable to verify the details of deferred tax liability as these details have not been shared by the Petitioner. Further, BRPL has requested to clarify whether the Petitioner is grossing up deferred tax amount while billing to beneficiaries.

61. In response, the Petitioner has submitted that the Regulation 39 of the Tariff Regulations, 2009 provides that deferred tax liability before 1.4.2009 only shall be recoverable directly from the beneficiaries, as grossing of RoE with effective tax rates is allowed w.e.f. 1.4.2009. Further, the Petitioner has claimed only the reimbursement of Income tax liability, discharged as per the provisions of Income Tax Act, 1961 and that the deferred tax liability materialized up to 31.3.2014 have been claimed till date and claim for deferred tax materialized for 2014-19 tariff period is yet to claimed. The Petitioner has also submitted the required documents along with Auditor Certificate and deferred tax liability bills and that deferred tax liability billed/materialized is not considered while grossing up the RoE.

62. We have considered the submissions of the Petitioner, UPPCL and BRPL. It was placed before us that The Commission in order dated 27.4.2020 in Petition No.274/TT/2019 has arrived at the effective tax rate for the Petitioner based on the notified MAT rates and the same is given in the table below. The relevant portion of the order dated 27.4.2020 is as follows:



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

27. Accordingly, following effective tax rates based on notified MAT rates are considered for the purpose of grossing up of rate of return on equity:

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

”

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

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

64. The Petitioner has claimed RoE for 2014-19 period after grossing up of RoE of 15.50% with Effective Tax rates (based on MAT rates) each year in terms of above



said Regulation. The RoE is tried up on the basis of the MAT rate applicable in the respective years and is allowed for the transmission asset as follows:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Opening Equity	628.59	628.59	628.59	628.59	628.59
Additions due to ACE	0.00	0.00	0.00	0.00	0.00
Closing Equity	628.59	628.59	628.59	628.59	628.59
Average Equity	628.59	628.59	628.59	628.59	628.59
Return on Equity (Base Rate) (%)	15.500	15.500	15.500	15.500	15.500
MAT Rate for respective year (%)	20.961	21.342	21.342	21.342	21.549
Rate of Return on Equity (%)	19.610	19.705	19.705	19.705	19.758
Return on Equity	123.27	123.86	123.86	123.86	124.20

65. The details of RoE approved *vide* order dated 14.3.2016 in Petition No. 194/TT/2014, RoE claimed by the Petitioner and tried up in the instant order are as follows:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 14.3.2016 in Petition No. 194/TT/2014	123.27	123.27	123.27	123.27	123.27
Claimed by the Petitioner in the instant petition	123.36	123.93	123.86	123.86	124.20
Allowed after true-up in this order	123.27	123.86	123.86	123.86	124.20

Operation & Maintenance Expenses (O & M Expenses)

66. The details of the O&M Expenses claimed by the Petitioner in respect of the transmission asset are as follows:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Sub-station (Panki-Nubasta bays at Kanpur)					
2 Number of 220 kV Sub-station bays					
Number of bays	2	2	2	2	2
Norms (₹ lakh/Bay)	42.21	43.61	45.06	46.55	48.10
Transmission Line (Panki-Nubasta)					
D/C (Single Conductor) (in km)	14.86	14.86	14.86	14.86	14.86
Norms (₹ lakh/km)	0.202	0.209	0.216	0.223	0.23
Total	88.92	91.87	94.93	98.06	101.34



67. Regulation 29(3) of the 2014 Tariff Regulations specifies the norms for O&M Expenses for the transmission system. The norms specified in respect of the elements covered in the transmission asset are as follows:

Element	Norms for 2014-15	Norms for 2015-16	Norms for 2016-17	Norms for 2017-18	Norms for 2018-19
S/C (Single Conductor)	₹0.202 lakh/km	₹0.209 lakh/km	₹0.216 lakh/km	₹0.223 lakh/km	₹0.230 lakh/km
D/C (Single Conductor)	₹0.303 lakh/km	₹0.313 lakh/km	₹0.324 lakh/km	₹0.334 lakh/km	₹0.346 lakh/km
220 kV Sub-station	₹42.21 lakh/bay	₹43.61 lakh/bay	₹45.06 lakh/bay	₹46.55 lakh/bay	₹48.10 lakh/bay
132 kV and below Sub-station	₹30.15 lakh/bay	₹31.15 lakh/bay	₹32.18 lakh/bay	₹33.25 lakh/bay	₹34.36 lakh/bay

68. UPPCL has submitted that the O& M Expenses claimed by the Petitioner are as per the 2014 Tariff Regulations.

69. We have considered the submissions of the Petitioner and UPPCL. The O&M Expenses allowed under Regulation 29(3) of the 2014 Tariff Regulations for the transmission assets are as follows:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Sub-station (Panki-Nubasta bays at Kanpur)					
2 Numbers 220 kV Sub-station bays					
Number of bays	2	2	2	2	2
Norms (₹ lakh/Bay)	42.21	43.61	45.06	46.55	48.10
Transmission Line (Panki-Nubasta)					
D/C (Single Conductor) (in km)	14.86	14.86	14.86	14.86	14.86
Norms (₹ lakh/km)	0.202	0.209	0.216	0.223	0.23
Total	88.92	91.87	94.93	98.06	101.34

70. The details of O&M Expenses approved *vide* order dated 14.3.2016 in Petition No. 194/TT/2014, O&M Expenses claimed by the Petitioner and trued up in the instant order are as follows:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated	88.92	91.87	94.93	98.06	101.34



14.3.2016 in Petition No. 194/TT/2014					
Claimed by the Petitioner in the instant petition	88.92	91.87	94.93	98.06	101.34
Allowed after true-up in this order	88.92	91.87	94.93	98.06	101.34

Interest on Working Capital (IWC)

71. The IWC has been worked out as per the methodology provided in Regulation 28 of the 2014 Tariff Regulations and the IWC allowed for the transmission asset is as follows:

	(₹ in lakh)				
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
O & M Expenses (O & M Expenses for 1 month)	7.41	7.66	7.91	8.17	8.45
Maintenance Spares (15% of O & M Expenses)	13.34	13.78	14.24	14.71	15.20
Receivables (Equivalent to 2 months of annual fixed cost)	43.95	44.57	40.41	40.96	41.59
Total Working Capital	64.69	66.00	62.56	63.84	65.24
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
Interest on Working Capital	8.73	8.91	8.45	8.62	8.81

72. The details of IWC approved *vide* order dated 14.3.2016 in Petition No. 194/TT/2014, IWC claimed by the Petitioner and trued up in the instant order are as follows:

	(₹ in lakh)				
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 14.3.2016 in Petition No. 194/TT/2014	8.73	8.90	8.43	8.60	8.79
Claimed by the Petitioner in the instant petition	8.74	8.91	8.45	8.62	8.81
Allowed after true-up in this order	8.73	8.91	8.45	8.62	8.81

Approved Annual Fixed Charges for 2014-19 Tariff Period

73. The trued up annual fixed charges approved for the transmission asset for 2014-19 tariff period are as follows:



(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	42.75	42.75	15.21	15.21	15.21
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	123.27	123.86	123.86	123.86	124.20
Interest on Working Capital	8.73	8.91	8.45	8.62	8.81
O & M Expenses	88.92	91.87	94.93	98.06	101.34
Total	263.67	267.39	242.45	245.75	249.55

74. Accordingly, the Annual Transmission Charges approved *vide* order dated 14.3.2016 in Petition No. 194/TT/2014, claimed by the Petitioner and approved after truing up in the instant order is as follows:

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 14.3.2016 in Petition No. 194/TT/2014	263.67	266.78	241.84	245.14	248.60
Claimed by the Petitioner in the instant petition	263.77	267.46	242.45	245.75	249.56
Allowed after true-up in this order	263.67	267.39	242.45	245.75	249.55

DETERMINATION OF ANNUAL FIXED CHARGES FOR 2019-24 TARIFF PERIOD

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

(₹ in lakh)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	15.21	15.21	15.20	15.21	15.20
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	124.20	124.20	124.20	124.20	124.20
Interest on Working Capital	4.32	4.41	4.49	4.57	4.65
O & M Expenses	51.09	52.88	54.71	56.62	58.58
Total	194.83	196.70	198.60	200.60	202.63

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

(₹ in lakh)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
O & M Expenses	4.26	4.41	4.56	4.72	4.88



Maintenance Spares	7.66	7.93	8.21	8.49	8.79
Receivables	23.95	24.25	24.48	24.73	24.91
Total Working Capital	35.87	36.59	37.25	37.94	38.58
Rate of Interest (%)	12.05	12.05	12.05	12.05	12.05
Interest on Working Capital	4.32	4.41	4.49	4.57	4.65

Capital Cost as on 1.4.2019

77. Regulation 19 of the 2019 Tariff Regulations provide as under:

“19 Capital Cost: (1) *The Capital cost of the generating station or the transmission system, as the case may be, as determined by the Commission after prudence check in accordance with these regulations shall form the basis for determination of tariff for existing and new projects.*

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

(a) *The expenditure incurred or projected to be incurred up to the date of commercial operation of the project;*

(b) *Interest during construction and financing charges, on the loans (i) being equal to 70% of the funds deployed, in the event of the actual equity in excess of 30% of the funds deployed, by treating the excess equity as normative loan, or (ii) being equal to the actual amount of loan in the event of the actual equity less than 30% of the funds deployed;*

(c) *Any gain or loss on account of foreign exchange risk variation pertaining to the loan amount availed during the construction period;*

(d) *Interest during construction and incidental expenditure during construction as computed in accordance with these regulations;*

(e) *Capitalised Initial Spares subject to the ceiling rates in accordance with these regulations;*

(f) *Expenditure on account of additional capitalization and de-capitalisation determined in accordance with these regulations;*

(g) *Adjustment of revenue due to sale of infirm power in excess of fuel cost prior to the date of commercial operation as specified under Regulation 7 of these regulations;*

(h) *Adjustment of revenue earned by the transmission licensee by using the assets before the date of commercial operation;*

(i) *Capital expenditure on account of ash disposal and utilization including handling and transportation facility;*

(j) *Capital expenditure incurred towards railway infrastructure and its augmentation for transportation of coal upto the receiving end of the generating station but does not include the transportation cost and any other appurtenant cost paid to the railway;*

(k) *Capital expenditure on account of biomass handling equipment and facilities, for co-firing;*

(l) *Capital expenditure on account of emission control system necessary to meet the revised emission standards and sewage treatment plant;*

(m) *Expenditure on account of fulfilment of any conditions for obtaining environment clearance for the project;*

(n) *Expenditure on account of change in law and force majeure events; and*

(o) *Capital cost incurred or projected to be incurred by a thermal generating station, on account of implementation of the norms under Perform, Achieve and Trade (PAT) scheme of Government of India shall be considered by the Commission subject to sharing of benefits accrued under the PAT scheme with the beneficiaries.*



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

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

(4) *The capital cost in case of existing or new hydro generating station shall also include:*

- (a) *cost of approved rehabilitation and resettlement (R&R) plan of the project 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.”*



78. The Petitioner has claimed capital cost of ₹814.05 lakh as on 31.3.2019 in respect of the transmission asset. No ACE has been claimed in 2019-24 tariff period. The capital cost of ₹814.05 lakh 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.

Debt-Equity ratio

79. 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.”

80. UPPCL has submitted that the Petitioner has failed to submit the debt:equity ratio approved by Board of Directors in its Investment Approval. Therefore, normative debt:equity ratio 70:30 should be considered in terms of the judgment of APTEL in Appeal No. 139 of 2006 and batch cases. UPPCL has submitted that cumulative depreciation upto 31.3.2019 is ₹473.43 lakh, the opening value of debt for 2019-20 will be ₹97.42 lakh and closing value of debt will be ₹82.21 lakh for 2019-20 and that on this basis, the Petitioner should submit the IoL for the tariff period 2019-24.

81. In response, the Petitioner has submitted that debt-equity ratio approved by the Commission as on 31.3.2014 vide order dated 14.3.2016 in Petition No. 194/TT/2014 has been considered.

82. We have considered the submissions of the Petitioner and UPPCL. The debt:equity ratio allowed by the Commission for determination of tariff for the period ending on 31.3.2019 shall be considered as provided under Regulation 18(3) of the 2019 Tariff Regulations. Accordingly, the debt-equity considered for the purpose of computation of tariff of the transmission asset for 2019-24 period is as follows:



Particulars	Capital Cost as on 1.4.2019 (₹ in lakh)	%	ACE during 2019-24 (₹ in lakh)	%	Capital Cost as on 31.3.2024 (₹ in lakh)	%
Debt	185.46	22.78	0.00	70.00	185.46	22.78
Equity	628.59	77.22	0.00	30.00	628.59	77.22
Total	814.05	100.00	0.00	100.00	814.05	100.00

Depreciation

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

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

"(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."

84. The depreciation has been worked out considering the admitted capital expenditure as on 31.3.2019 and accumulated depreciation up to 31.3.2019. As the transmission asset has already completed 12 years of useful life during the 2014-19 tariff period, the remaining depreciable value is spread over the balance useful life of the assets in the 2019-24 period as prescribed in Regulation 33(5) of the 2019 Tariff



Regulations. The depreciation allowed in respect of the transmission asset is as under:

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation					
Opening Gross Block	814.05	814.05	814.05	814.05	814.05
Addition during the year 2019-24 due to projected ACE	0.00	0.00	0.00	0.00	0.00
Closing Gross Block	814.05	814.05	814.05	814.05	814.05
Average Gross Block	814.05	814.05	814.05	814.05	814.05
Weighted average rate of Depreciation (WAROD) (%)	1.86	1.86	1.86	1.86	1.86
Balance useful life at the beginning of the year (Year)	17	16	15	14	13
Elapsed life of the asset (Year)	15	16	17	18	19
Depreciable Value	732.65	732.65	732.65	732.65	732.65
Depreciation during the year	15.21	15.21	15.21	15.21	15.21
Cumulative Depreciation	489.34	504.54	519.75	534.96	550.16
Remaining Depreciable Value	243.31	228.10	212.89	197.69	182.48

Interest on Loan (IoL)

85. The Petitioner has not claimed any IoL as the entire loan has already been repaid before 1.4.2014. Accordingly, IoL has been considered as nil for the purpose of tariff.

Return on Equity (RoE)

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

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

(2) Return on equity shall be computed at the base rate of 15.50% for thermal generating station, transmission system including communication system and run-of river hydro generating station, and at the base rate of 16.50% for the storage type hydro generating stations including pumped storage hydro generating stations and run-of river generating station with pondage:

Provided that return on equity in respect of additional capitalization after cut-off date beyond the original scope excluding additional capitalization due to Change in Law, shall be computed at the weighted average rate of interest on actual loan portfolio of the generating station or the transmission system;



Provided further that:

i. In case of a new project, the rate of return on equity shall be reduced by 1.00% for such period as may be decided by the Commission, if the generating station or transmission system is found to be declared under commercial operation without commissioning of any of the Restricted Governor Mode Operation (RGMO) or Free Governor Mode Operation (FGMO), data telemetry, communication system up to load dispatch centre or protection system based on the report submitted by the respective RLDC;

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

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

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

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

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

“31. Tax on Return on Equity:*(1) The base rate of return on equity as allowed by the Commission under Regulation 30 of these regulations shall be grossed up with the effective tax rate of the respective financial year. For this purpose, the effective tax rate shall be considered on the basis of actual tax paid in respect of the financial year in line with the provisions of the relevant Finance Acts by the concerned generating company or the transmission licensee, as the case may be. The actual tax paid on income from other businesses including deferred tax liability (i.e. income from business other than business of generation or transmission, as the case may be) shall be excluded for the calculation of effective tax rate.*

(2) Rate of return on equity shall be rounded off to three decimal places and shall be computed as per the formula given below:

Rate of pre-tax return on equity = Base rate/ (1-t)

Where “t” is the effective tax rate in accordance with clause (1) of this Regulation and shall be calculated at the beginning of every financial year based on the estimated profit and tax to be paid estimated in line with the provisions of the relevant Finance Act applicable for that financial year to the company on pro-rata basis by excluding the income of non-generation or non-transmission business, as the case may be, and the corresponding tax thereon. In case of generating company or transmission licensee paying Minimum Alternate Tax (MAT), “t” shall be considered as MAT rate including surcharge and cess.



Illustration-

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

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

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

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

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

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

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

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

87. UPPCL has submitted that with the capital cost of ₹814.07 lakh the normative equity at the rate of normative debt equity ratio of 70:30 will be ₹244.22. UPPCL has further submitted that opening equity from 2019-20 to 2023-24 will be ₹244.22 lakh for each financial year.

88. In response, the Petitioner has submitted that opening equity approved by the Commission *vide* order dated 14.3.2016 in Petition No. 194/TT/2014 has been considered.

89. We have considered the submissions of the Petitioner and UPPCL. The opening equity approved by the Commission *vide* order dated 14.3.2016 in Petition No. 194/TT/2014 has been considered, hence the submission of UPPCL is rejected.

90. The Petitioner has submitted that MAT rate is applicable to the Petitioner's Company. The Petitioner *vide* affidavit dated 23.3.2021 has submitted that effective



income tax rate used for grossing up of RoE in the instant petition. The Petitioner has further submitted that at the time of filing the instant petition, the then applicable MAT rate was used and thereafter MAT rate has been changed. In the absence of assessment order pertaining to 2019-24 period, RoE should be calculated @18.782% after grossing up the RoE with MAT rate of 17.742% (Base rate of 15% + surcharge 12% + cess 4% based on Regulation 31(2)(ii) of the 2019 Tariff Regulations.

91. We have considered the submissions made by the Petitioner and UPPCL. Accordingly, 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. The RoE allowed for the transmission asset is as follows:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Equity	628.59	628.59	628.59	628.59	628.59
Additions due to ACE	0.00	0.00	0.00	0.00	0.00
Closing Equity	628.59	628.59	628.59	628.59	628.59
Average Equity	628.59	628.59	628.59	628.59	628.59
Return on Equity (Base Rate) (%)	15.500	15.500	15.500	15.500	15.500
MAT Rate for respective year (%)	17.472	17.472	17.472	17.472	17.472
Rate of Return on Equity (%)	18.782	18.782	18.782	18.782	18.782
Return on Equity	118.06	118.06	118.06	118.06	118.06

Operation & Maintenance Expenses (O&M Expenses)

92. The O&M expenses claimed by the Petitioner for the various elements included in the transmission asset for the 2019-24 tariff period are as follows:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Sub-station (Panki-Nubasta bays at Kanpur)					
2 Numbers 220 kV sub-station bays					
Number of bays	2	2	2	2	2
Norms (₹ lakh/Bay)	22.51	23.3	24.12	24.96	25.84
Transmission Line (Panki-Nubasta)					
D/C (Single Conductor) (in km)	14.86	14.86	14.86	14.86	14.86
Norms (₹ lakh/km)	0.377	0.391	0.404	0.419	0.433
O & M for PLCC (2% of	0.47	0.47	0.47	0.47	0.47



₹23.65 lakh)					
Total	51.09	52.88	54.71	56.62	58.58

93. Regulation 35(3)(a) of the 2019 Tariff Regulations provides as follows:

“35 Operation and Maintenance Expenses

....

(3) Transmission system: (a) The following normative operation and maintenance expenses shall be admissible for the transmission system:

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Norms for sub-station Bays (₹ Lakh per bay)					
765 kV	45.01	46.60	48.23	49.93	51.68
400 kV	32.15	33.28	34.45	35.66	36.91
220 kV	22.51	23.30	24.12	24.96	25.84
132 kV and below	16.08	16.64	17.23	17.83	18.46
Norms for Transformers (₹ Lakh per MVA)					
765 kV	0.491	0.508	0.526	0.545	0.564
400 kV	0.358	0.371	0.384	0.398	0.411
220 kV	0.245	0.254	0.263	0.272	0.282
132 kV and below	0.245	0.254	0.263	0.272	0.282
Norms for AC and HVDC lines (₹ Lakh per km)					
Single Circuit (Bundled Conductor with six or more sub-conductors)	0.881	0.912	0.944	0.977	1.011
Single Circuit (Bundled conductor with four sub-conductors)	0.755	0.781	0.809	0.837	0.867
Single Circuit (Twin & Triple Conductor)	0.503	0.521	0.539	0.558	0.578
Single Circuit (Single Conductor)	0.252	0.260	0.270	0.279	0.289
Double Circuit (Bundled conductor with four or more sub-conductors)	1.322	1.368	1.416	1.466	1.517
Double Circuit (Twin & Triple Conductor)	0.881	0.912	0.944	0.977	1.011
Double Circuit (Single Conductor)	0.377	0.391	0.404	0.419	0.433
Multi Circuit (Bundled Conductor with four or more sub-conductor)	2.319	2.401	2.485	2.572	2.662
Multi Circuit (Twin & Triple Conductor)	1.544	1.598	1.654	1.713	1.773
Norms for HVDC stations					



<i>HVDC Back-to-Back stations (Rs Lakh per 500 MW) (Except Gazuwaka BTB)</i>	834	864	894	925	958
<i>Gazuwaka HVDC Back-to-Back station (₹ Lakh per 500 MW)</i>	1,666	1,725	1,785	1,848	1,913
<i>500 kV Rihand-Dadri HVDC bipole scheme (Rs Lakh) (1500 MW)</i>	2,252	2,331	2,413	2,498	2,586
<i>±500 kV Talcher- Kolar HVDC bipole scheme (Rs Lakh) (2000 MW)</i>	2,468	2,555	2,645	2,738	2,834
<i>±500 kV Bhiwadi-Balia HVDC bipole scheme (Rs Lakh) (2500 MW)</i>	1,696	1,756	1,817	1,881	1,947
<i>±800 kV, Bishwanath-Agra HVDC bipole scheme (Rs Lakh) (3000 MW)</i>	2,563	2,653	2,746	2,842	2,942

Provided that the O&M expenses for the GIS bays shall be allowed as worked out by multiplying 0.70 of the

O&M expenses of the normative O&M expenses for bays;

Provided further that:

- i. the operation and maintenance expenses for new HVDC bi-pole schemes commissioned after 1.4.2019 for a particular year shall be allowed pro-rata on the basis of normative rate of operation and maintenance expenses of similar HVDC bi-pole scheme for the corresponding year of the tariff period;*
- ii. the O&M expenses norms for HVDC bi-pole line shall be considered as Double Circuit quad AC line;*
- iii. the O&M expenses of ±500 kV Mundra-Mohindergarh HVDC bipole scheme (2000 MW) shall be allowed as worked out by multiplying 0.80 of the normative O&M expenses for ±500 kV Talchar-Kolar HVDC bi-pole scheme (2000 MW);*
- iv. the O&M expenses of ±800 kV Champa-Kurukshetra HVDC bi-pole scheme (3000 MW) shall be on the basis of the normative O&M expenses for ±800 kV, Bishwanath-Agra HVDC bi-pole scheme;*
- v. the O&M expenses of ±800 kV, Alipurduar-Agra HVDC bi-pole scheme (3000 MW) shall be allowed as worked out by multiplying 0.80 of the normative O&M expenses for ±800 kV, Bishwanath-Agra HVDC bi-pole scheme; and*
- vi. the O&M expenses of Static Synchronous Compensator and Static Var Compensator shall be worked at 1.5% of original project cost as on commercial operation which shall be escalated at the rate of 3.51% to work out the O&M expenses during the tariff period. The O&M expenses of Static Synchronous Compensator and Static Var Compensator, if required, may be reviewed after three year*



(b) The total allowable operation and maintenance expenses for the transmission system shall be calculated by multiplying the number of sub-station bays, transformer capacity of the transformer (in MVA) and km of line length with the applicable norms for the operation and maintenance expenses per bay, per MVA and per km respectively.

(c) The Security Expenses and Capital Spares for transmission system shall be allowed separately after prudence check:

Provided that the transmission licensee shall submit the assessment of the security requirement and estimated security expenses, the details of year-wise actual capital spares consumed at the time of truing up with appropriate justification.

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

94. We have considered the submission of the Petitioner. The Petitioner has claimed O&M Expenses separately for PLCC under Regulation 35(4) of the 2019 Tariff Regulations @2% of its original project cost in the instant petition. The Petitioner has made similar claim in other petitions as well. Though PLCC is a communication system, it has been considered as part of the sub-station in the 2014 Tariff Regulations and the 2019 Tariff Regulations and the norms for sub-station have been specified accordingly. Accordingly, the Commission *vide* order dated 24.1.2021 in Petition No. 126/TT/2020 has already concluded that no separate O&M Expenses can be allowed for PLCC under Regulation 35(4) of the 2019 Tariff Regulations even though PLCC is a communication system. Therefore, the Petitioner's claim for separate O & M Expenses for PLCC @2% is not allowed. The relevant portions of the order dated 24.1.2021 in Petition No. 126/TT/2020 are extracted hereunder:

“103. Thus, although PLCC equipment is a communication system, it has been considered as a part of sub-station, as it is used both for protection and communication. Therefore, we are of the considered view that rightly, it was not considered for separate O&M Expenses while framing norms of O&M for 2019-24 tariff period. While specifying norms for bays and transformers, O&M Expenses for PLCC have been included within norms for O&M Expenses for sub-station. Norms of O&M Expenses @2% of the capital cost in terms of Regulation 35(4) of the 2019 Tariff Regulations have been specified for communication system such as PMU, RMU, OPGW etc. and not for PLCC equipment.”



“105. In our view, granting of O&M Expenses for PLCC equipment @2% of its capital cost under Regulation 35(4) of the 2014 Tariff Regulations under the communication system head would tantamount to granting O&M Expenses twice for PLCC equipment as PLCC equipment has already been considered as part of the sub-station. Therefore, the Petitioner’s prayer for grant of O&M Expenses for the PLCC equipment @2% of its capital cost under Regulation 35(4) of the 2014 Tariff Regulations is rejected.

106. The principle adopted in this petition that PLCC is part of sub-station and accordingly no separate O&M Expenses is admissible for PLCC equipment in the 2019-24 tariff period under Regulation 35(4) of the 2019 Tariff Regulations shall be applicable in case of all petitions where similar claim is made by the Petitioner. As already mentioned, the Commission, however, on the basis of the claim made by the Petitioner has inadvertently allowed O&M Expenses for PLCC equipment @2% of its original project cost, which is applicable for other “communication system”, for 2019-24 period in 31 petitions given in Annexure-3 of this order. Therefore, the decision in this order shall also be applicable to all the petitions given in Annexure-3. Therefore, PGCIL is directed to bring this decision to the notice of all the stakeholders in the 31 petitions given in Annexure-3 and also make revised claim of O&M Expenses for PLCC as part of the sub-station at the time of truing up of the tariff allowed for 2019-24 period in respective petitions.”

95. We have considered the submissions of the Petitioner. The O&M Expenses has been worked out as per the as per the norms specified in the 2019 Tariff Regulations and it is as follows:

	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
O & M Expenses					
2 Numbers of 220 kV bays (Panki-Nubasta bays at Kanpur Sub-Station)					
Norms (₹ lakh/Bay)	22.51	23.30	24.12	24.96	25.84
Total	45.02	46.60	48.24	49.92	51.68
14.86 km D/C (Single Conductor) (Panki-Nubasta Transmission Line)					
Norms (₹ lakh/km)	0.377	0.391	0.404	0.419	0.433
Total	5.60	5.81	6.00	6.23	6.43
Total O&M expenses allowed (₹ in lakh)	50.62	52.41	54.24	56.15	58.11

Interest on Working Capital (IWC)

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



“34. Interest on Working Capital

(1)...

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

- i. Receivables equivalent to 45 days of fixed cost;*
- ii. Maintenance spares @ 15% of operation and maintenance expenses including security expenses; and*
- iii. Operation and maintenance expenses, including security expenses for one month”*

(3)Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.4.2019 or as on 1st April of the year during the tariff period 2019-24 in which the generating station or a unit thereof or the transmission system including communication system or element thereof, as the case may be, is declared under commercial operation, whichever is later:

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

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

“3.Definitions ...

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

97. The Petitioner has submitted that it has computed IWC for the 2019-24 period considering the SBI Base Rate plus 350 basis points as on 1.4.2019. The Petitioner has considered the rate of IWC as 12.05%. The IWC is worked out in accordance with Regulation 34 of the 2019 Tariff Regulations. The ROI considered is 12.05% (SBI 1-year MCLR applicable as on 1.4.2019 of 8.55% plus 350 basis points) for 2019-20, whereas, ROI for 2020-21 onwards has been considered as 11.25% (SBI 1-year MCLR applicable as on 1.4.2020 of 7.75% plus 350 basis points). The components of the working capital and interest thereon allowed for the transmission for the 2019-24 tariff period are as follows:



(₹ in lakh)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
O & M Expenses (O & M Expenses for 1 month)	4.22	4.37	4.52	4.68	4.84
Maintenance Spares (15% of O & M Expenses)	7.59	7.86	8.14	8.42	8.72
Receivables (Equivalent to 45 days of annual transmission cost)	23.13	23.39	23.62	23.87	24.05
Total Working Capital	34.94	35.61	36.28	36.97	37.61
Rate of Interest (%)	12.05	11.25	11.25	11.25	11.25
Interest on Working Capital	4.21	4.01	4.08	4.16	4.23

Annual Fixed Charges for 2019-24 Tariff Period

98. The transmission charges allowed for the transmission asset for 2019-24 tariff period are as follows:

(₹ in lakh)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	15.21	15.21	15.21	15.21	15.21
Interest on Loan	0.00	0.00	0.00	0.00	0.00
Return on Equity	118.06	118.06	118.06	118.06	118.06
Interest on Working Capital	4.21	4.01	4.08	4.16	4.23
O & M Expenses	50.62	52.41	54.24	56.15	58.11
Total	188.10	189.69	191.59	193.57	195.61

Filing Fee and the Publication Expenses

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

Licence Fee & RLDC Fees and Charges

100. The Petitioner shall be entitled for reimbursement of licence fee in accordance with Regulation 70(4) of the 2019 Tariff Regulations for 2019-24 tariff 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 2019-24 tariff period.



Goods and Services Tax

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

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

Security Expenses

103. The Petitioner has submitted that security expenses for the transmission asset are not claimed in the instant petition and it would file a separate petition for claiming the overall security expenses and the consequential IWC. The Petitioner has requested to consider the actual security expenses incurred during 2018-19 for claiming estimated security expenses for 2019-20 which shall be subject to true up at the end of the year based on the actuals. The Petitioner has submitted that similar petition for security expenses for 2020-21, 2021-22, 2022-23 and 2023-24 periods shall 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 difference, if any, between the estimated security expenses and actual security expenses as per the audited accounts may be allowed to be recovered from the beneficiaries on a yearly basis.

104. We have considered the submissions of the Petitioner. We are of the view that the Petitioner should claim security expenses for all the transmission assets in one



petition. It is observed that the Petitioner has already filed Petition No. 260/MP/2020 claiming consolidated security expenses on projected basis for 2019-24 tariff period on the basis of actual security expenses incurred in 2018-19. Therefore, security expenses will be dealt with in Petition No. 260/MP/2020 in accordance with the applicable provisions of the 2019 Tariff Regulations.

Capital Spares

105. 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

106. The tariff for 2001-04 tariff period shall be recovered as per order dated 21.6.2005 in Petition No. 60/2003. The tariff for the 2004-09 tariff period shall be recovered as per orders dated 28.4.2006 and 22.1.2007 in Petition No. 102/2005. The tariff for the 2009-14 tariff period shall be recovered as per order dated 14.3.2016 in Petition No. 194/TT/2014.

107. The billing, collection and disbursement of the transmission charges approved in this order shall be governed by the provisions of the 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 the 2014 Tariff Regulations for the 2014-19 tariff period and Regulation 57 of the 2019 Tariff Regulations for the 2019-24 tariff period.



108. To summarise:

(a) The revised Annual Fixed Charges allowed in respect of the transmission asset for 2001-04 and 2004-09 tariff periods as per APTEL's judgements are as follows:

(₹ in lakh)

Particulars	2003-04 (Pro-rata 6 months)	2004-05	2005-06	2006-07	2007-08	2008-09
Annual Fixed Charges	94.79	193.64	194.88	196.10	197.91	199.89

(b) The consequential revision of Annual Fixed Charges allowed in respect of the transmission asset for 2009-14 tariff period are as follows:

(₹ in lakh)

Particulars	2009-10	2010-11	2012-13	2013-14	2014-15
Annual Fixed Charges	251.96	257.24	259.59	263.96	270.94

(c) The trued-up Annual Fixed Charges allowed in respect of transmission asset for 2014-19 tariff period are as follows:

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Annual Fixed Charges	263.67	267.39	242.45	245.75	249.55

(d) The Annual Fixed Charges allowed in respect of the transmission asset for 2019-24 tariff period in this order are as follows:

(₹ in lakh)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Annual Fixed Charges	188.10	189.69	191.59	193.57	195.61

109. Annexure given hereinafter forms part of the order.

110. This order disposes of Petition No. 337/TT/2019 in view of the above discussion and findings

sd/-
(Pravas Kumar Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I. S. Jha)
Member

sd/-
(P. K. Pujari)
Chairperson



Annexure-I

2014-19 Capital Expenditure	Admitted Capital Cost as on 1.4.2014 (₹ in lakh)	Admitted Capital Cost as on 31.3.2019 (₹ in lakh)	Rate of Depreciation as per Regulations	Annual Depreciation as per Regulations (₹ in lakh)	
				2014-15	2015-16
Land - Freehold	0.00	0.00	-	-	-
Land - Leasehold	0.00	0.00	3.34%	-	-
Building Civil Works & Colony	24.84	24.84	3.34%	0.83	0.83
Transmission Line	566.28	566.28	5.28%	29.90	29.90
Sub Station	199.28	199.28	5.28%	10.52	10.52
PLCC	23.65	23.65	6.33%	1.50	1.50
IT Equipment (Incl. Software)	0.00	0.00	5.28%	-	-
Total	814.05	814.05		42.75	42.75
		Average Gross Block (₹ in lakh)		814.05	814.05
		Weighted Average Rate of Depreciation		5.25%	5.25%

*Since the asset has completed 12 years of life in 2014-19, the remaining depreciable value of ₹304.14 lakh as on 31.3.2016 has been spread across the balance useful life of 20 years in accordance with Regulation 27(5) of the 2014 Tariff Regulations / Regulation 33(5) of the 2019 Tariff Regulations. The annual depreciation from the year 2016-17 and onwards is ₹15.21 lakh.

