

# CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 420/TT/2019

Coram:

**Shri P. K. Pujari, Chairperson**  
**Shri I. S. Jha, Member**  
**Shri Arun Goyal, Member**  
**Shri Pravas Kumar Singh, Member**  
**Shri Prakash S. Mhaske, Member, Ex-officio**

**Date of Order: 30.04.2021**

**In the matter of:**

Approval under Regulation 86 of Central Electricity Regulatory Commission (Conduct of Business) Regulations 1999 and revision of transmission tariff of the 2001-04, 2004-09 and 2009-14 tariff periods and truing up of transmission tariff of the 2014-19 period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2014 and determination of transmission tariff of the 2019-24 period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2019 for Combined Asset consisting of **Asset-I:** LILO of 400 kV S/C Singrauli-Kanpur Transmission Line-I at Allahabad; **Asset-II:** LILO of 400 kV S/C Singrauli-Kanpur Transmission Line-II at Allahabad; **Asset-III:** ICT-I at Allahabad along with associated bays; and **Asset-IV:** ICT-II at Allahabad along with associated bays in 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.
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-134109 (Haryana).
8. Power Development Deptt.  
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 Ved Prakash Rastogi, PGCIL  
Shri A. K. Verma, PGCIL

**For Respondents** : Shri R. B. Sharma, Advocate, BRPL  
Shri Mohit Mudgal, Advocate, BYPL  
Ms. Megha Bajpeyi, BRPL

### **ORDER**

The instant petition has been filed by Power Grid Corporation of India Ltd. (hereinafter referred to as “the Petitioner”), for revision of transmission tariff of the 2001-04, 2004-09 and 2009-14 tariff periods, truing of the transmission tariff of the period from 1.4.2014 to 31.3.2019 under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2014 (hereinafter referred to as “the 2014 Tariff Regulations”) and for determination of tariff of the period from 1.4.2019 to 31.3.2024 under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2019 (hereinafter referred to as “the 2019 Tariff Regulations”) in respect of the following transmission asset/ Combined Asset consisting of:

**Asset-I:** LILO of 400 kV S/C Singrauli-Kanpur Transmission Line-I at Allahabad;

**Asset-II:** LILO of 400 kV S/C Singrauli-Kanpur Transmission Line-II at Allahabad;

**Asset-III:** ICT-I at Allahabad along with associated bays; and

**Asset-IV:** ICT-II at Allahabad along with associated bays in the Northern Region.

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 tried 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.

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

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 recover FERV on the foreign loans deployed as provided under clause 68 of the Tariff Regulations,2019

8) 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.

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

10) 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 Investment Approval (IA) for the above transmission system was accorded by Board of Directors of the Petitioner Company as per Memorandum dated 8.4.1998 at an estimated cost of ₹8980.00 lakh (4<sup>th</sup> quarter 1997 price level), including IDC of ₹1187.00 lakh.



- b) The entire scope of work as per IA is covered under the instant Petition.
- c) The Petitioner claimed the Date of Commercial Operation (COD) of Asset-1, Asset-II, Asset-III and Asset-IV as 1.11.2001, 1.8.2001, 1.2.2003 and 1.1.2003 respectively. The Commission vide order dated 13.4.2005 in Petition No. 58/2002 while approving the COD of the assets claimed by Petitioner, taking into consideration the submissions of the Respondents approved the effective COD of Asset-I, Asset-II, Asset-IV as 1.1.2003 and Asset-III as 1.2.2003. The relevant portion of the order dated 13.4.2005 is extracted hereunder:

*“.....We, therefore, agree with the respondents’ contention that LILO of Singrauli-Kanpur Transmission Line- I & Transmission Line-II along with associated bays at Allahabad was put to effective use only after commissioning of first transformer (ICT-II) at Allahabad on 1.1.2003.*

*10. Therefore, effective date of commercial operation for the different assets have been considered as follows:*

<i>Ser. No</i>	<i>Particulars</i>	<i>Effective date of commercial operation</i>
<i>1</i>	<i>LILO of Singrauli-Kanpur transmission line-I</i>	<i>1.1.2003</i>
<i>2</i>	<i>LILO of Singrauli-Kanpur transmission line-II</i>	<i>1.1.2003</i>
<i>3</i>	<i>ICT-I</i>	<i>1.2.2003</i>
<i>4</i>	<i>ICT-II</i>	<i>1.1.2003</i>

”

- d) The Commission further vide order dated 13.4.2005 in Petition No.58/2002 segregated the tariff calculation for the 2001-04 tariff period into two parts. The relevant portion of the order dated 13.4.2005 is extracted hereunder:

*“11. In view of the above, tariff calculations have been segregated into two parts, namely, for the period from the declared date of commercial operation to effective date of commercial operation and from effective date of commercial operation to 31.3.2004. For the former period, only interest on loan has been worked out and for the latter period normal tariff has been allowed.”*

- e) Accordingly, only Interest on Loan (IoL) has been worked out for the period from declared COD to effective COD as per order dated 13.4.2005 in



Petition No. 58/2002 and normal tariff has been allowed from effective COD to 31.3.2004.

- f) The notional COD of the Combined Asset is 1.2.2003.
- g) The transmission tariff for the period from COD to 31.3.2004 was approved *vide* order dated 13.4.2005 in Petition No. 58/2002 and the transmission tariff was revised *vide* order dated 19.9.2006 in IA No. 46/2006 in Petition No. 72/2005 on account of Additional Capital Expenditure (ACE) of ₹144.71 lakh and ₹124.27 lakh incurred during 2002-03 and 2003-04 respectively for Asset-II and ACE of ₹8.56 lakh incurred during 2002-03 for Asset-IV. The transmission tariff for the period from 1.4.2004 to 31.3.2009 was approved *vide* order dated 9.5.2006 in Petition No. 72/2005. The transmission tariff for 2004-09 period was revised on account of FERV adjustment *vide* order dated 30.4.2008 in Petition No. 72/2005. The transmission tariff for the 2009-14 period was revised on account of true up as per Regulation 6 of the 2009 Tariff Regulations and the transmission tariff for 2014-19 tariff period was also approved *vide* the same order.
- h) The Petitioner has sought revision of transmission tariff approved for the 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 the judgments of the Appellate Tribunal for Electricity (APTEL) dated 22.1.2007 and 13.6.2007 in Appeal Nos. 81/2005 and 139/2006 respectively. The Petitioner has also sought consequential revision of tariff allowed for the 2009-14 tariff period, trueing up of tariff of the 2014-19 tariff period and determination of tariff for the 2019-24 tariff period for the transmission assets.



- i) APTEL *vide* judgments dated 22.1.2007 in Appeal No. 81/2005 and other related Appeals, and judgment dated 13.6.2007 in Appeal No. 139/2006 pertaining to generating stations of NTPC decided on, mainly, the following issues:
- i. Computation of interest on loan;
  - ii. Consequences of refinancing of loan;
  - iii. Depreciation as deemed repayment;
  - iv. Admissibility of depreciation up to 90% of the value of the assets;
  - v. Consideration of maintenance of spares for working capital; and
  - vi. Depreciation of assets.
- j) The Commission and certain interested parties preferred Civil Appeals against the APTEL's judgments before the Hon'ble Supreme Court in 2007. The Appeals were admitted and initially a 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. 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.
- k) Based on APTEL's judgments dated 22.1.2007 in Appeal No. 81/2005 and 13.6.2007 in Appeal No. 139/2007 and the Commission's order dated 18.1.2019 in Petition No. 121/2007, the Petitioner has sought re-determination of tariff of its transmission assets for the 2001-04 and 2004-09 tariff periods in Petition No. 121/2007. The Commission after taking into consideration the pendency of Appeals before the Hon'ble Supreme Court



- adjourned the said petition *sine die* and directed that the same be revived after the disposal of the Civil Appeals by the Hon'ble Supreme Court.
- l) The Hon'ble Supreme Court vide its judgment and final order dated 10.4.2018, dismissed the said Civil Appeals.
- m) Consequent to the Hon'ble Supreme Court's judgment dated 10.4.2018, Petition No. 121/2007 was listed for hearing before the Commission 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 of the petitions for the 2014-19 period in respect of concerned transmission assets.
- n) The instant petition was heard on 3.3.2021 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. Although, period-wise tariff is being re-worked based on the Tariff Regulations applicable for the respective tariff periods, suitable assumptions at certain places, if any, are being applied which are being indicated.
- o) The tariff for 2001-04 tariff period based on capital cost of ₹803.01 lakh, ₹3235.47 lakh, ₹1666.11 lakh and ₹1541.42 lakh as on COD for Asset-I, Asset-II, Asset-III and Asset-IV respectively was approved by the Commission *vide* its order dated 13.4.2005 in Petition No. 58/2002. Further, considering ACE of ₹144.71 lakh and ₹124.27 lakh incurred during 2002-03 and 2003-04 respectively for Asset-II, ACE of ₹8.56 lakh incurred during 2002-03 for Asset-IV, ACE of ₹115.32 lakh from 1.4.2008 to 31.3.2009 and FERV related adjustments, the capital cost approved by the Commission *vide* order dated 30.4.2008 in Petition No. 72/2005 is ₹798.69 lakh,





₹3486.45 lakh, ₹1649.38 lakh and ₹1533.71 lakh as on 1.4.2004 for Asset-I, Asset-II, Asset-III and Asset-IV respectively. Accordingly, tariff is being revised for the 2004-09 and 2009-14 tariff periods in terms of the APTEL's judgement dated 22.1.2007 and 13.6.2007.

4. 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 vide its judgement dated 14.11.2006 had set aside the Commission's methodology of computation of loan on the actual repayment basis or normative repayment whichever is higher and held that the Commission is required to adopt normative debt repayment methodology for working out IoL liability for the period 1.4.1998 to 31.3.2001. In view of the above, the interest allowed for the 2004-09 period is revised on the basis of the normative debt repayment methodology. The relevant portions of the judgment of 14.11.2006 is as follows:

- “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.”*

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

6. APTEL vide its judgment dated 13.6.2007 in Appeal No.139/2006 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."*

7. In view of the above, the maintenance spares to be considered for computation of working capital for the 2001-04 and 2004-09 periods are also required to be revised taking into consideration ACE after COD.

8. As regards depreciation, APTEL vide its judgment dated 13.6.2007 in Appeal No.139/2006 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 judgment 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."*



9. In view of the above directions of APTEL, the outstanding loan allowed for the transmission assets for the 2001-04 and 2004-09 periods is being revised in the instant order.

10. The revision of tariff allowed for the 2001-04 and 2004-09 tariff periods necessitates the revision of tariff allowed for the 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 outcome of the Civil Appeals filed before the Hon'ble Supreme Court. Hence, taking into consideration the facts of the case and keeping in view 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 the 2001-04, 2004-09 and 2009-14 tariff periods. Therefore, the Petitioner will neither claim nor pay any carrying cost from the beneficiaries for the difference, if any, in the tariff allowed earlier and that allowed vide 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.

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

12. The Petitioner has served the petition on the Respondents and notice regarding filing of this petition has been published in the newspapers in accordance with Section 64 of the Electricity Act 2003. No comments or objections have been received from the general public in response to the aforesaid notices published in the newspapers. Uttar Pradesh Power Corporation Ltd. (UPPCL), Respondent No. 9, has *vide* affidavit dated 3.12.2019 submitted reply and has raised issues regarding IoL, depreciation, and Return on Equity (RoE). The Petitioner *vide* affidavit dated 8.3.2021 has



submitted rejoinder to UPPCL reply. BSES Rajdhani Power Ltd. (BRPL), Respondent No. 12, has *vide* affidavit dated 9.3.2021 submitted reply and has raised issues regarding revision of transmission tariff, tax on transmission business, Indian Accounting Standards and laying down of procedural guidelines pertaining to truing up exercise. The Petitioner *vide* affidavit dated 16.3.2021 submitted rejoinder BRPL reply. The Petitioner *vide* affidavit dated 22.7.2020 has filed information in response to the Technical Validation letter dated 2.7.2020. The issues raised by the Respondents, UPPCL, BRPL and the clarifications given by the Petitioner are dealt in the relevant portions of this order.

13. BRPL has submitted that while reopening of the tariff of the 2001-04, 2004-09 and 2009-14 periods based on APTEL's judgments, the Commission has considered only a part of the judgment of Hon'ble Supreme Court in the matter of U.P. Power Corporation Limited Vs. National Thermal Power Corporation Ltd. reported in (2009) 6 SCC 235 and not the entire judgment. The Commission may re-examine the issue of revising the tariff considering the entirety of the Hon'ble Supreme Court judgment and decide if the same is applicable to the facts of this Petition. BRPL has further submitted that the power to revise the tariff has to be exercised within a reasonable period of time and the same can be done only when the tariff is in force and not afterwards. Further, BRPL has submitted that the Commission may revisit order dated 6.11.2019 in Petition No. 288/TT/2019, Petition No. 300/TT/2019, Petition No. 301/TT/2019 and Petition No. 305/TT/2019 in view of the facts, legal position and the judgment of the Hon'ble Supreme Court.

14. In response, the Petitioner has submitted that the objection was raised by the Respondent in previous orders dated 31.7.2020 in Petition No. 288/TT/2019, dated



5.3.2021 in Petition No. 290/TT/2020 and the Commission allowed the revision of tariff for 2001-04, 2004-09 and 2009-14 periods.

15. We have considered the submissions of the Petitioner and BRPL. The Commission in interim order dated 6.11.2019 in Petition No. 288/TT/2019, Petition No. 300/TT/2019, Petition No. 301/TT/2019 and Petition No. 305/TT/2019 has considered the submissions of BRPL and has rejected them. As the issues raised by BRPL have already been decided, we are of the view that there is no requirement to go into those issues. The relevant portion of the order dated 6.11.2019 is extracted hereunder:

*“15. 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, alongwith 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 and BSPHCL 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.”*

16. In view of the above, the preliminary objection of BRPL is rejected. The other issues raised by BRPL and UPPCL, and the clarifications given by the Petitioner are considered in the relevant portions of this order.

17. The hearing in this matter was held on 10.3.2020 through video conference and the Commission reserved the order in the matter.

18. This order is issued considering the submissions made by the Petitioner in the petition filed *vide* affidavit dated 27.9.2019, UPPCL's and BRPL's reply *vide* affidavits dated 3.12.2019 and 9.3.2021 respectively, the Petitioner's rejoinders to UPPCL and BRPL *vide* affidavits dated 8.3.2021 and 16.3.2021 respectively and the Petitioner's reply (to Technical Validation letter) *vide* affidavit dated 22.7.2020.

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

### **Revision of Transmission Charges Allowed for the period from COD to 31.3.2004, 2004-09 and 2009-14 Tariff Periods**

#### **2001-04 Tariff Period**

20. The Commission *vide* order dated 13.4.2005 in Petition No. 58/2002 had approved the transmission charges for the transmission assets. Further, the Commission *vide* order dated 19.9.2006 in IA No. 46/2006 in Petition No. 72/2005 had



approved the impact of ACE w.r.t. Asset-II and Asset-IV on IoL and RoE, which was allowed to be recovered by the Petitioner from the Respondents along with the tariff for the respective periods dealt in order dated 19.9.2006 in IA No. 46/2006 in Petition No. 72/2005 and the same are summarized as follows:

(₹ in lakh)

Particular	2002-03	2003-04	Total
<b>Asset-II</b>			
ACE	144.71	124.27	268.98
IoL	0.00	7.66	7.66
RoE	0.00	11.64	11.64
<b>Total (IoL+ RoE)</b>	<b>0.00</b>	<b>19.30</b>	<b>19.30</b>
<b>Asset-IV</b>			
ACE	8.56	0.00	8.56
IoL	0.00	0.85	0.85
RoE	0.00	0.00	0.00
<b>Total (IoL+ RoE)</b>	<b>0.00</b>	<b>0.85</b>	<b>0.85</b>

21. The transmission charges allowed for the transmission assets *vide* order dated 13.4.2005 in Petition No. 58/2002 is as under:

(₹ in lakh)

Particulars	2001-02	2002-03		2003-04
	1.11.2001-31.3.2002	1.4.2002-31.12.2002	1.1.2003-31.3.2003	1.4.2003-31.3.2004
Asset-I				
Depreciation	0.00	0.00	7.17	28.67
Interest on Loan	28.68	52.24	17.00	67.04
Return on Equity	0.00	0.00	6.47	25.87
Advance against Depreciation	0.00	0.00	0.00	0.00
Interest on Working Capital	0.00	0.00	0.98	3.95
O&M Expenses	0.00	0.00	7.21	30.57
<b>Total</b>	<b>28.68</b>	<b>52.24</b>	<b>38.82</b>	<b>156.10</b>

(₹ in lakh)

Particulars	2001-02	2002-03		2003-04
	1.8.2001-31.3.2002	1.4.2002-31.12.2002	1.1.2003-31.3.2003	1.4.2003-31.3.2004
Asset-II				
Depreciation	0.00	0.00	23.30	93.18
Interest on Loan	193.78	219.29	70.56	278.42
Return on Equity	0.00	0.00	22.85	91.38
Advance against Depreciation	0.00	0.00	0.00	6.25
Interest on Working Capital	0.00	0.00	2.57	10.38
O&M Expenses	0.00	0.00	7.27	30.82
<b>Total</b>	<b>193.78</b>	<b>219.29</b>	<b>126.54</b>	<b>510.43</b>





(₹ in lakh)

Particulars	2002-03 (1.2.2003 - 31.3.2003)	2003-04
<b>Asset-III</b>		
Depreciation	10.19	61.13
Interest on Loan	19.16	112.08
Return on Equity	13.32	79.90
Advance against Depreciation	0.00	21.68
Interest on Working Capital	1.09	6.95
O&M Expenses	4.60	29.26
<b>Total</b>	<b>48.36</b>	<b>311.00</b>

(₹ in lakh)

Particulars	2002-03 (1.1.2003-31.3.2003)	2003-04
<b>Asset-IV</b>		
Depreciation	14.16	56.62
Interest on Loan	27.21	104.34
Return on Equity	18.23	72.91
Advance against Depreciation	0.00	20.41
Interest on Working Capital	1.52	6.45
O&M Expenses	6.90	29.26
<b>Total</b>	<b>68.01</b>	<b>289.99</b>

22. The Petitioner has claimed the following revised transmission charges for the transmission assets for the 2001-04 period in this Petition:

(₹ in lakh)

Particulars	2001-02	2002-03		2003-04
	1.11.2001- 31.3.2002	1.4.2002- 31.12.2002	1.1.2003- 31.3.2003	1.4.2003- 31.3.2004
<b>Asset-I</b>				
Depreciation	0.00	0.00	7.17	28.67
Interest on Loan	28.68	52.24	17.00	67.04
Return on Equity	0.00	0.00	6.47	25.87
Advance against Depreciation	0.00	0.00	0.00	0.00
Interest on Working Capital	0.00	0.00	0.98	3.99
O&M Expenses	0.00	0.00	7.21	30.57
<b>Total</b>	<b>28.68</b>	<b>52.24</b>	<b>38.82</b>	<b>156.14</b>

(₹ in lakh)

Particulars	2001-02	2002-03		2003-04
	1.8.2001- 31.3.2002	1.4.2002- 31.12.2002	1.1.2003- 31.3.2003	1.4.2003- 31.3.2004
<b>Asset-II</b>				
Depreciation	0.00	0.00	23.30	93.18
Interest on Loan	193.78	219.29	70.56	285.94
Return on Equity	0.00	0.00	22.85	103.02
Advance against Depreciation	0.00	0.00	0.00	8.94
Interest on Working Capital	0.00	0.00	2.59	10.65



O&M Expenses	0.00	0.00	7.27	30.82
<b>Total</b>	<b>193.78</b>	<b>219.29</b>	<b>126.57</b>	<b>532.55</b>

(₹ in lakh)

Particulars	2002-03 (1.2.2003 - 31.3.2003)	2003-04
<b>Asset-III</b>		
Depreciation	10.19	61.13
Interest on Loan	19.16	112.08
Return on Equity	13.32	79.90
Advance against Depreciation	0.00	21.67
Interest on Working Capital	1.09	7.01
O&M Expenses	4.60	29.26
<b>Total</b>	<b>48.36</b>	<b>311.05</b>

(₹ in lakh)

Particulars	2002-03 (1.1.2003 - 31.3.2003)	2003-04
<b>Asset-IV</b>		
Depreciation	14.16	56.62
Interest on Loan	27.21	105.16
Return on Equity	18.23	72.91
Advance against Depreciation	0.00	21.02
Interest on Working Capital	1.52	6.50
O&M Expenses	6.90	29.26
<b>Total</b>	<b>68.02</b>	<b>291.47</b>

23. UPPCL has submitted that IoL claimed by the Petitioner for the transmission assets doesn't match with IoL admitted by the Commission. UPPCL has further submitted that the Rate of Interest (RoI) considered by the Petitioner is not justified and clarification is not provided for the difference in interest on loan claimed. In response, the Petitioner has submitted that Weighted Average Rate of Interest (WAROI) has been considered as allowed by the Commission *vide* order dated 13.4.2005 in Petition No. 58/2002 and order dated 19.9.2006 and 30.4.2008 in IA No.46/2006 in Petition No.72/2005 and the calculation of the same can be referred from the tariff calculations submitted along with the Petition. The Petitioner has further submitted that the cumulative depreciation may be referred from tariff calculations submitted as part of the Petition.



24. We have considered the submissions made by the Petitioner and UPPCL. The tariff is allowed for the transmission assets on the basis of the following:

- a. As ACE during the 2001-04 period is less than 20% of the apportioned approved cost for the transmission assets, the impact of ACE during the 2001-04 period has only been considered for RoE and IoL as decided *vide* order dated 13.4.2005 in Petition No. 58/2002 for Asset-I and Asset-III and *vide* order dated 19.9.2006 in IA No.46/2006 in Petition No. 72/2005 for Asset-II and Asset-IV. Further, RoE and IoL are allowed on ACE from 1<sup>st</sup> April of the financial year following the financial year to which ACE relates. The admitted capital cost for the 2001-04 period is as under:

(₹ in lakh)

Particulars	Admitted Capital Cost as on Effective COD
Asset-I	803.01
Asset-II	3235.47
Asset-III	1666.11
Asset-IV	1541.42

- b. The loan repayment in tariff has now been modified as per the judgment of APTEL that has directed that normative repayment is to be considered and not “higher of normative or actual repayment” as was considered by the Commission earlier.
- c. WAROI on actual loan adopted from order dated 13.4.2005 in Petition No. 58/2002 for the transmission assets;
- d. WAROD, Rate of Interest for Working Capital and O&M Expenses as per order dated 13.4.2005 in Petition No. 58/2002 for the transmission assets;



- e. Maintenance Spares component of Interest on Working Capital (IWC) for Asset-II and Asset-IV are being revised on account of ACE in the 2001-04 period.

25. In view of the above, the revised transmission charges allowed for the transmission assets for the 2001-04 period is as under:

(₹ in lakh)

Particulars	2001-02	2002-03		2003-04
	1.11.2001-31.3.2002	1.4.2002-31.12.2002	1.1.2003-31.3.2003	1.4.2003-31.3.2004
<b>Asset-I</b>				
Depreciation	0.00	0.00	7.17	28.67
IoL	28.68	52.24	17.00	67.04
RoE	0.00	0.00	6.47	25.87
Advance against Depreciation	0.00	0.00	0.00	0.00
IWC	0.00	0.00	0.98	3.95
O&M Expenses	0.00	0.00	7.21	30.57
<b>Total</b>	<b>28.68</b>	<b>52.24</b>	<b>38.82</b>	<b>156.10</b>

(₹ in lakh)

Particulars	2001-02	2002-03		2003-04
	1.8.2001-31.3.2002	1.4.2002-31.12.2002	1.1.2003-31.3.2003	1.4.2003-31.3.2004
<b>Asset-II</b>				
Depreciation	0.00	0.00	23.30	93.18
IoL	193.78	219.29	70.56	278.42
RoE	0.00	0.00	22.85	91.38
Advance against Depreciation	0.00	0.00	0.00	6.25
IWC	0.00	0.00	2.59	10.61
O&M Expenses	0.00	0.00	7.27	30.82
<b>Total</b>	<b>193.78</b>	<b>219.29</b>	<b>126.56</b>	<b>510.66</b>

(₹ in lakh)

Particulars	2002-03		2003-04
	(1.2.2003 - 31.3.2003)		
<b>Asset-III</b>			
Depreciation		10.19	61.13
IoL		19.16	112.08
RoE		13.32	79.90
Advance against Depreciation		0.00	21.68
IWC		1.09	6.95
O&M Expenses		4.60	29.26
<b>Total</b>		<b>48.36</b>	<b>311.00</b>



(₹ in lakh)

Particulars	2002-03 (1.1.2003 - 31.3.2003)	2003-04
<b>Asset-IV</b>		
Depreciation	14.16	56.62
IoL	27.21	104.34
RoE	18.23	72.91
Advance against Depreciation	0.00	20.41
IWC	1.52	6.46
O&M Expenses	6.90	29.26
<b>Total</b>	<b>68.03</b>	<b>289.99</b>

26. The AFC allowed earlier for the 2001-04 period, revised AFC claimed and AFC allowed in the instant order is as under:

(₹ in lakh)

Particulars	2001-02	2002-03		2003-04
	(pro rata)	1.4.2002- 31.12.2002	1.1.2003- 31.3.2003	
<b>Asset-I</b>				
AFC approved vide order dated 13.4.2005 in Petition No. 58/2002	28.68	52.24	38.82	156.10
AFC claimed by the Petitioner in the instant petition	28.68	52.24	38.82	156.14
AFC allowed in the instant order	28.68	52.24	38.82	156.10
<b>Asset-II</b>				
AFC approved vide order dated 13.4.2005 in Petition No. 58/2002 and order dated 19.9.2006 in IA No. 46/2006 in Petition No. 72/2005	193.78	219.29	126.54	510.43
AFC claimed by the Petitioner in the instant petition	193.78	219.29	126.57	532.55
AFC allowed in the instant order	193.78	219.29	126.56	510.66
<b>Asset-III</b>				
AFC approved vide order dated 13.4.2005 in Petition No. 58/2002	-	-	48.36	311.00
AFC claimed by the Petitioner in the instant petition	-	-	48.36	311.05
AFC allowed in the instant order	-	-	48.36	311.00
<b>Asset-IV</b>				
AFC approved vide order dated 13.4.2005 in Petition No. 58/2002 and order dated 19.9.2006 in IA No.46/2006 in Petition No. 72/2005	-	-	68.01	289.99
AFC claimed by the Petitioner in the instant petition	-	-	68.02	291.47
AFC allowed in the instant order	-	-	68.03	289.99



## 2004-09 Tariff Period

27. The Commission approved the transmission charges for the 2004-09 tariff period *vide* orders dated 9.5.2006 and 30.4.2008 in Petition No. 72/2005 for the transmission assets. The transmission charges allowed for the transmission assets were as follows:

(₹ in lakh)					
Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
<b>Asset-I</b>					
Depreciation	28.51	28.51	28.51	28.51	28.51
IoL	62.65	55.26	48.90	42.94	36.98
RoE	22.64	22.64	22.64	22.64	22.64
Advance against Depreciation	15.46	27.13	27.13	27.13	27.13
IWC	4.63	4.82	4.82	4.84	4.87
O&M Expenses	56.76	59.04	61.40	63.84	66.40
<b>Total</b>	<b>190.65</b>	<b>197.39</b>	<b>193.41</b>	<b>189.90</b>	<b>186.53</b>
<b>Asset-II</b>					
Depreciation	97.23	97.23	97.23	97.23	97.23
IoL	273.43	241.25	213.58	187.58	161.50
RoE	98.89	98.89	98.89	98.89	98.89
Advance against Depreciation	126.70	145.38	145.38	145.38	145.38
IWC	15.48	15.52	15.33	15.19	15.06
O&M Expenses	56.86	59.14	61.51	63.95	66.52
<b>Total</b>	<b>668.57</b>	<b>657.40</b>	<b>631.92</b>	<b>608.21</b>	<b>584.66</b>
<b>Asset-III</b>					
Depreciation	60.51	60.51	60.51	60.51	60.51
IoL	102.06	86.64	74.71	64.10	53.50
RoE	69.91	69.91	69.91	69.91	69.91
Advance against Depreciation	30.39	43.17	43.17	43.17	43.17
IWC	7.90	8.02	7.98	8.00	8.01
O&M Expenses	56.24	58.50	60.84	63.26	65.80
<b>Total</b>	<b>327.02</b>	<b>326.75</b>	<b>317.14</b>	<b>308.95</b>	<b>300.90</b>
<b>Asset-IV</b>					
Depreciation	56.33	56.33	56.33	56.33	56.33
IoL	95.70	81.24	70.05	60.11	50.16
RoE	63.80	63.80	63.80	63.80	63.80
Advance against Depreciation	24.89	40.88	40.88	40.88	40.88
IWC	7.38	7.57	7.55	7.55	7.57
O&M Expenses	56.24	58.50	60.84	63.26	65.80
<b>Total</b>	<b>304.35</b>	<b>308.32</b>	<b>299.45</b>	<b>291.93</b>	<b>284.54</b>



28. The Petitioner has claimed the following revised AFC for the transmission assets for the 2004-09 tariff period in this Petition:

(₹ in lakh)

Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
<b>Asset-I</b>					
Depreciation	28.51	28.51	28.51	28.51	28.51
IoL	62.65	55.27	48.93	42.99	37.04
RoE	22.64	22.64	22.64	22.64	22.64
Advance against Depreciation	15.35	26.95	26.95	26.95	26.95
IWC	4.67	4.85	4.87	4.89	4.92
O&M Expenses	56.76	59.04	61.40	63.84	66.40
<b>Total</b>	<b>190.57</b>	<b>197.26</b>	<b>193.30</b>	<b>189.82</b>	<b>186.46</b>
<b>Asset-II</b>					
Depreciation	97.23	97.23	97.23	97.23	97.23
IoL	273.63	241.55	213.89	187.95	162.01
RoE	98.89	98.89	98.89	98.89	98.89
Advance against Depreciation	121.51	144.81	144.81	144.81	144.81
IWC	15.86	16.01	15.85	15.74	15.65
O&M Expenses	56.86	59.14	61.51	63.95	66.52
<b>Total</b>	<b>663.98</b>	<b>657.63</b>	<b>632.18</b>	<b>608.57</b>	<b>585.11</b>
<b>Asset-III</b>					
Depreciation	60.51	60.51	60.51	60.51	60.51
IoL	101.99	86.64	74.79	64.26	59.79
RoE	69.91	69.91	69.91	69.91	69.91
Advance against Depreciation	30.43	42.33	42.33	42.33	42.33
IWC	7.99	8.10	8.08	8.09	8.22
O&M Expenses	56.24	58.50	60.84	63.26	65.80
<b>Total</b>	<b>327.07</b>	<b>325.99</b>	<b>316.46</b>	<b>308.36</b>	<b>306.56</b>
<b>Asset-IV</b>					
Depreciation	56.33	56.33	56.33	56.33	56.33
IoL	95.63	81.24	70.13	60.26	50.39
RoE	63.80	63.80	63.80	63.80	63.80
Advance against Depreciation	24.30	40.05	40.05	40.05	40.05
IWC	7.45	7.65	7.63	7.64	7.67
O&M Expenses	56.24	58.50	60.84	63.26	65.80
<b>Total</b>	<b>303.75</b>	<b>307.57</b>	<b>298.78</b>	<b>291.35</b>	<b>284.04</b>

29. UPPCL has submitted that IoL claimed by the Petitioner for all the transmission assets does not match with IoL admitted by the Commission. UPPCL has further submitted that the RoI considered by the Petitioner is not justified and clarification is



not provided for the difference in IoL claimed. In response, the Petitioner has submitted that WAROI has been considered as allowed by the Commission *vide* orders dated 9.5.2006 and 30.4.2008 in Petition No. 72/2005 and the calculation of the same can be referred from the tariff calculations submitted along with the Petition. The Petitioner has further submitted that the cumulative depreciation may be referred from tariff calculations submitted as part of the Petition.

30. We have considered the submissions made by the Petitioner and UPPCL. The tariff is allowed for the transmission assets for the 2004-09 tariff period on the basis of the following:

- a. The admitted capital cost and ACE approved by the Commission for the 2004-09 period:

<b>Particulars</b>	<b>Admitted Capital Cost as on 1.4.2004*</b>
Asset-I	798.69
Asset-II	3486.45
Asset-III	1649.38
Asset-IV	1533.71

- b. WAROI on actual loan adopted from orders dated 9.5.2006 and 30.4.2008 in Petition No. 72/2005 for the transmission assets.
- c. WAROD, Rate of Interest for Working Capital and O&M Expenses as per orders dated 9.5.2006 and 30.4.2008 in Petition No. 72/2005 for the transmission assets.
- d. Maintenance Spares component of IWC for Asset-II and Asset-IV are being revised on account of ACE in the 2001-04 period.

31. In view of the above, the revised AFC allowed for the transmission assets for the 2004-09 tariff period is as follows:





(₹ in lakh)

Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
<b>Asset-I</b>					
Depreciation	28.51	28.51	28.51	28.51	28.51
IoL	62.66	55.29	48.94	43.00	37.06
RoE	22.64	22.64	22.64	22.64	22.64
Advance against Depreciation	15.28	26.97	26.97	26.97	26.97
IWC	4.62	4.81	4.82	4.84	4.87
O&M Expenses	56.76	59.04	61.40	63.84	66.40
<b>Total</b>	<b>190.48</b>	<b>197.25</b>	<b>193.28</b>	<b>189.80</b>	<b>186.44</b>
<b>Asset-II</b>					
Depreciation	97.23	97.23	97.23	97.23	97.23
IoL	273.47	241.36	213.76	187.84	161.91
RoE	98.89	98.89	98.89	98.89	98.89
Advance against Depreciation	125.98	144.66	144.66	144.66	144.66
IWC	15.77	15.83	15.67	15.54	15.44
O&M Expenses	56.86	59.14	61.51	63.95	66.52
<b>Total</b>	<b>668.20</b>	<b>657.11</b>	<b>631.72</b>	<b>608.11</b>	<b>584.65</b>
<b>Asset-III</b>					
Depreciation	60.51	60.51	60.51	60.51	60.51
IoL	102.10	86.74	74.87	64.33	59.85
RoE	69.91	69.91	69.91	69.91	69.91
Advance against Depreciation	29.69	42.43	42.43	42.43	42.43
IWC	7.88	8.01	7.98	7.99	8.11
O&M Expenses	56.24	58.50	60.84	63.26	65.80
<b>Total</b>	<b>326.34</b>	<b>326.11</b>	<b>316.56</b>	<b>308.44</b>	<b>306.63</b>
<b>Asset-IV</b>					
Depreciation	56.33	56.33	56.33	56.33	56.33
IoL	95.73	81.34	70.21	60.34	50.44
RoE	63.80	63.80	63.80	63.80	63.80
Advance against Depreciation	23.85	40.16	40.16	40.16	40.16
IWC	7.37	7.57	7.55	7.56	7.57
O&M Expenses	56.24	58.50	60.84	63.26	65.80
<b>Total</b>	<b>303.34</b>	<b>307.70</b>	<b>298.89</b>	<b>291.44</b>	<b>284.11</b>

32. AFC allowed earlier for the 2004-09 period, the revised AFC claimed and AFC allowed in the instant order is as under:

(₹ in lakh)

Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
<b>Asset-I</b>					
AFC approved <i>vide</i> order dated 30.4.2008 in Petition No. 72/2005	190.65	197.39	193.41	189.90	186.53



AFC claimed by the Petitioner in the instant petition	190.57	197.26	193.31	189.82	186.46
AFC allowed in the instant order	190.48	197.25	193.28	189.80	186.44
<b>Asset-II</b>					
AFC approved <i>vide</i> order dated 30.4.2008 in Petition No. 72/2005	668.57	657.40	631.92	608.21	584.66
AFC claimed by the Petitioner in the instant petition	663.98	657.63	632.18	608.57	585.11
AFC allowed in the instant order	668.20	657.11	631.72	608.11	584.65
<b>Asset-III</b>					
AFC approved <i>vide</i> order dated 30.4.2008 in Petition No. 72/2005	327.02	326.75	317.14	308.95	300.90
AFC claimed by the Petitioner in the instant petition	327.07	325.99	316.46	308.36	306.56
AFC allowed in the instant order	326.34	326.11	316.56	308.44	306.63
<b>Asset-IV</b>					
AFC approved <i>vide</i> order dated 30.4.2008 in Petition No. 72/2005	304.35	308.32	299.45	291.93	284.54
AFC claimed by the Petitioner in the instant petition	303.75	307.57	298.78	291.35	284.04
AFC allowed in the instant order	303.34	307.70	298.89	291.44	284.11

### **2009-14 Tariff Period**

33. The effective COD for Asset-I, Asset-II, Asset-IV is 1.1.2003 whereas for Asset-III, it is considered as 1.2.2003. The Commission *vide* order dated 24.5.2011 in Petition No. 320/2010 approved the tariff for Combined Asset for 2009-14 tariff period and subsequently, *vide* order dated 14.3.2016 in Petition No. 193/TT/2014 had trued up the tariff allowed for the 2009-14 tariff period and the same is as under:

	(₹ in lakh)				
Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
<b>Combined Asset</b>					
Depreciation	363.73	363.73	363.73	363.73	363.73
IoL	257.02	214.65	174.92	131.52	88.35
RoE	340.46	352.93	353.27	353.27	357.52



IWC	47.63	48.59	49.44	50.30	51.35
O&M Expenses	551.76	583.35	616.74	651.99	689.27
<b>Total</b>	<b>1560.60</b>	<b>1563.25</b>	<b>1558.11</b>	<b>1550.81</b>	<b>1550.23</b>

34. The Petitioner has claimed the following revised transmission charges for the Combined Asset for the 2009-14 tariff period in this petition:

(₹ in lakh)					
Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
<b>Combined Asset</b>					
Depreciation	363.73	363.73	363.73	363.73	363.73
IoL	258.08	215.68	175.92	132.44	89.15
RoE	340.46	352.93	353.27	353.27	357.52
IWC	47.66	48.61	49.46	50.32	51.37
O&M Expenses	551.76	583.35	616.74	651.99	689.27
<b>Total</b>	<b>1561.69</b>	<b>1564.30</b>	<b>1559.12</b>	<b>1551.75</b>	<b>1551.04</b>

35. UPPCL has submitted that the RoI considered by the Petitioner is not justified. In response, the Petitioner has submitted that WAROI has been considered allowed by the Commission *vide* order dated 24.5.2011 in Petition No. 320/2010 and order dated 14.3.2016 in Petition No. 193/TT/2014. The Petitioner has further submitted that the cumulative depreciation as on 31.3.2009 and 31.3.2014 may be referred from tariff calculations submitted as part of the Petition.

36. BRPL submitted that the tariff trued up for the 2009-14 period is not in accordance with Regulation 6(1) of the 2009 Tariff Regulations. BRPL has further submitted that true up has to be done based on actual tax rate applicable to the Petitioner and based on the truing up of tariff if the recovered tariff exceeds the tariff approved, the Petitioner shall refund to beneficiaries along with simple interest. BRPL has further submitted that the transmission licensees have been allowed tax benefits under the Income Tax Act, 1961 (the 1961 Act) in the form of Tax Holiday for enterprises engaged in infrastructure development etc. as per Section 80 IA of the 1961 Act as well as the other benefits like the higher depreciation allowed in initial years. However, it is noted that the benefits arising out of the tax benefits were not



determined without considering the Regulation 15 of the 2009 Tariff Regulations. BRPL has further submitted that the Petitioner was allowed the grossing up of RoE in order dated 14.3.2016 in Petition No. 193/TT/2014 and the claim for grossing up can be allowed only if the Petitioner can submit any document indicating payment of tax on its transmission business. Therefore, the Commission may revisit the order to correct any incorrect decision in accordance with the APTEL's judgment dated 12.5.2015 in Appeal Nos. 129 and batch. In response, the Petitioner has submitted that in accordance with Regulation 15(3) of 2009 Tariff Regulations, RoE shall be grossed up with MAT/ Corporate Income tax rate of the transmission licensee and not the tax rate of the assets or region.

37. We have considered the submissions made by the Petitioner and UPPCL and BRPL. The tariff is allowed for the transmission assets on the basis of the following:

- a. The capital cost of ₹7468.24 lakh was admitted by the Commission for the 2009-14 period.
- b. WAROI on actual loan derived/ adopted from order dated 14.3.2016 in Petition No. 193/TT/2014.
- c. WAROD as per order 14.3.2016 in Petition No. 193/TT/2014.

38. In view of the above, the revised transmission charges allowed for the Combined Asset for the 2009-14 tariff period is as under:

	(₹ in lakh)				
Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
<b>Combined Asset</b>					
Depreciation	363.73	363.73	363.73	363.73	363.73
IoL	258.13	215.72	175.96	132.48	89.18
RoE	340.46	352.93	353.27	353.27	357.52
IWC	47.66	48.61	49.46	50.32	51.37
O&M Expenses	551.76	583.35	616.74	651.99	689.27



<b>Total</b>	<b>1561.73</b>	<b>1564.34</b>	<b>1559.16</b>	<b>1551.79</b>	<b>1551.07</b>
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39. AFC allowed *vide* order dated 14.3.2016 in Petition No. 193/TT/2014 for 2009-14 tariff period, the revised AFC claimed and AFC allowed in the instant order is as under:

(₹ in lakh)					
<b>Particulars</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>
<b>Combined Asset</b>					
AFC approved <i>vide</i> order dated 14.3.2016 in Petition No. 193/TT/2014	1560.60	1563.25	1558.11	1550.81	1550.23
AFC claimed by the Petitioner in the instant petition	1561.69	1564.30	1559.12	1551.75	1551.04
AFC allowed in the instant order	1561.73	1564.34	1559.16	1551.79	1551.07

#### **Truing Up of Annual Fixed Charges of the 2014-19 Tariff Period**

40. The details of the trued up transmission charges claimed by the Petitioner are as under:

(₹ in lakh)					
<b>Particulars</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
<b>Combined Asset</b>					
Depreciation	363.73	127.12	127.13	127.12	127.14
IoL	54.89	27.86	13.55	11.66	10.12
RoE	357.80	359.44	359.25	359.25	360.22
IWC	52.95	48.08	48.95	50.15	51.42
O&M Expenses	634.91	655.97	677.77	700.27	723.48
<b>Total</b>	<b>1464.28</b>	<b>1218.47</b>	<b>1226.65</b>	<b>1248.45</b>	<b>1272.38</b>

41. The details of IWC claimed by the Petitioner are as under:

(₹ in lakh)					
<b>Particulars</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
<b>Combined Asset</b>					
O&M Expenses	52.91	54.66	56.48	58.36	60.29
Maintenance Spares	95.24	98.40	101.67	105.04	108.52
Receivables	244.05	203.08	204.44	208.08	212.06
Total Working Capital	392.20	356.14	362.59	371.48	380.87
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
<b>IWC</b>	<b>52.95</b>	<b>48.08</b>	<b>48.95</b>	<b>50.15</b>	<b>51.42</b>



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

42. The capital cost of the transmission assets has been calculated in accordance with Regulation 9(3) of the 2014 Tariff Regulations.

43. BRPL has submitted that the Petitioner has opted for deemed cost exemption as per para D7 AA of IND AS 101 'First time Adoption' of Indian Accounting Standard which is resulting increase of tariff. The adoption of Indian Accounting Standard is for the purposes of the Companies Act, 2013 and not for the purposes of the Tariff Regulations which provides its own procedure for computation of tariff. In response, the Petitioner *vide* affidavit dated 16.3.2021 has submitted that the Ministry of Corporate Affairs (MCA), in 2015, had notified the Companies (Indian Accounting Standards (IND AS) Rules 2015, which stipulated mandatory adoption and applicability of IND AS beginning from the accounting period 2016-17 for companies having net worth more than ₹500 crore. As PGCIL adopted IND AS from 2015-16 onwards, the Gross Block less Accumulated Depreciation as on 1.4.2015 is considered as deemed cost as on the date of transition i.e. 1.4.2015 in the books of accounts. As such, in case of transmission assets which achieved COD before 1.4.2015, the gross block of the assets reflects gross block less accumulated depreciation as on 31.3.2015 in the books of accounts. There has been no change in the capital cost or ACE considered for claiming transmission tariff on account of adoption of IND AS. For the purpose of computation of tariff, the actual capital cost and ACE has been claimed/ considered. Thus, there is no impact in tariff at all on account of adoption of IND AS at any point of time.

44. We have considered the submissions of the Petitioner and BRPL. The Commission *vide* order dated 24.1.2021 in Petition No. 136/TT/2020 has already dealt with the issue raised by BRPL. The relevant paragraphs of the order are extracted as under:



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

45. The capital cost as on 31.3.2014 of ₹7468.24 lakh for the Combined Asset admitted by the Commission vide order dated 14.3.2016 in Petition No. 193/TT/2014 has been claimed as opening capital cost as on 1.4.2014 by the Petitioner. The same capital cost has considered to work out trued up tariff for the 2014-19 tariff period, in accordance with Regulation 9(3) of the 2014 Tariff Regulations.

46. The Petitioner has not claimed any ACE for the 2014-19 tariff period.

### **Debt-Equity Ratio**

47. The Petitioner has claimed opening Debt-Equity ratio as approved by the Commission vide order dated 14.3.2016 in Petition No. 193/TT/2014. The same has been considered by the Commission. The details of debt-equity ratio of the Combined Asset as on 1.4.2014 and 31.3.2019 is as follows:

Particulars	Capital Cost as on 1.4.2014 (₹ in lakh)	(%)	Total Capital Cost as on 31.3.2019 (₹ in lakh)	(%)
Debt	5645.08	75.59	5645.08	75.59
Equity	1823.16	24.41	1823.16	24.41
<b>Total</b>	<b>7468.24</b>	<b>100.00</b>	<b>7468.24</b>	<b>100.00</b>

### **Depreciation**

48. UPPCL has submitted that the depreciation considered by the Petitioner is inconsistent with the depreciation worked out by UPPCL. In response, the Petitioner



has submitted that depreciation has been computed as per the 2014 Tariff Regulations and the calculations for the same are submitted in the petition.

49. We have considered the submissions of the Petitioner and UPPCL. The Gross Block during the 2014-19 tariff period has been depreciated at WAROD. WAROD has been worked out (as placed in Annexure-I) after taking into account the depreciation rates of assets as specified in the 2014 Tariff Regulations. Accordingly, depreciation allowed during the 2014-19 tariff period is as under:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Opening Gross Block	7468.24	7468.24	7468.24	7468.24	7468.24
ACE	0.00	0.00	0.00	0.00	0.00
Closing Gross Block	7468.24	7468.24	7468.24	7468.24	7468.24
Average Gross Block	7468.24	7468.24	7468.24	7468.24	7468.24
Freehold Land	132.58	132.58	132.58	132.58	132.58
WAROD (%)	4.87	Spreading**			
Balance useful life of the asset (Year)	14	13	12	11	10
Elapsed life at the beginning of the year (Year)	11	12	13	14	15
Depreciable Value	6602.09	6602.09	6602.09	6602.09	6602.09
<b>Depreciation during the year</b>	<b>363.73</b>	<b>127.16</b>	<b>127.16</b>	<b>127.16</b>	<b>127.16</b>
Cumulative Depreciation	4949.03	5076.19	5203.35	5330.51	5457.67
Remaining Depreciable Value	1653.06	1525.90	1398.74	1271.58	1144.43

\*\*Remaining depreciable value of the respective year divided by balance useful life.

50. Accordingly, depreciation approved vide order dated 14.3.2016 in Petition No. 193/TT/2014, claimed by the Petitioner in the instant petition and trued up depreciation is shown in the table below:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved vide order dated 14.3.2016 in Petition No. 193/TT/2014	363.73	126.27	126.27	126.27	126.27
Claimed by the Petitioner in the instant petition	363.73	127.12	127.13	127.12	127.14





Allowed after true-up in this order	363.73	127.16	127.16	127.16	127.16
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### **Interest on Loan (IoL)**

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

52. UPPCL has submitted that IoL should be claimed based on correct figures of cumulative repayment of loan. UPPCL has further submitted that since COD of Combined Asset is 1.2.2003, 12 years of useful life elapsed on 1.2.2015 and IoL for 2015-16 to 2018-19 should be nil per year. In response, the Petitioner *vide* affidavit dated 8.3.2021 has submitted that the cumulative repayment of loan as on 1.4.2014 is considered and IoL has been calculated considering repayment of loan in accordance with the 2014 Tariff Regulations.

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

(₹ in lakh)

<b>Particulars</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Gross Normative Loan	5645.08	5645.08	5645.08	5645.08	5645.08
Cumulative Repayments upto Previous Year	4585.30	4949.03	5076.19	5203.35	5330.51
Net Loan-Opening	1059.78	696.05	568.89	441.73	314.57
Additions	0.00	0.00	0.00	0.00	0.00
Repayment during the year	363.73	127.16	127.16	127.16	127.16
Net Loan-Closing	696.05	568.89	441.73	314.57	187.41
Average Loan	877.91	632.47	505.31	378.15	250.99
Weighted Average Rate of Interest on Loan (%)	6.2553	4.4080	2.6832	3.0855	4.0389
<b>IoL</b>	<b>54.92</b>	<b>27.88</b>	<b>13.56</b>	<b>11.67</b>	<b>10.14</b>



54. Accordingly, IoL approved vide order dated 14.3.2016 in Petition No. 193/TT/2014, claimed by the Petitioner in the instant petition and trued up IoL is shown in the table below:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Approved vide order dated 14.3.2016 in Petition No. 193/TT/2014	54.17	26.64	9.85	7.12	4.68
Claimed by the Petitioner in the instant petition	54.89	27.86	13.55	11.66	10.12
Allowed after true-up in this order	54.92	27.88	13.56	11.67	10.14

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

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

Year	Claimed effective tax (in %)	Grossed up RoE [ $\frac{\text{Base Rate}}{1-t}$ ] (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

56. BRPL has submitted that the information regarding Income Tax Assessment submitted by the Petitioner is in respect of the Petitioner Company as a whole and not in respect of the tax on the transmission business in respect of the Northern Region. Accordingly, the said information is not the relevant information for the purposes of effective tax rate. BRPL has submitted that on the basis of the publicly available financial statements of the Petitioner, BRPL has worked out the effective tax rate of the Petitioner which stands at 8.70% for 2014-15 and 'NIL' in 2015-16, 2016-17, 2017-18 and 2018-19. BRPL has submitted that infrastructure transmission companies have



been allowed tax benefits under the 1961 Act in the form of Tax Holiday for enterprises engaged in infrastructure development etc. as per Section 80 IA of the 1961 Act and other benefits like the higher depreciation allowed in initial years. BRPL has submitted that the Petitioner has already stated on affidavit that the effective tax rate is zero and accordingly the effective tax rate for the earlier 2009-14 tariff period would also be zero since the benefits of the tax holiday under Section 80 IA of the 1961 Act and other benefits like the higher depreciation etc. were also applicable during earlier tariff period. Regulation 49 of the 2014 Tariff Regulations restricts the claim of tax amount only to deferred tax liabilities up to 31.3.2009 whenever it will materialize. BRPL has also submitted that the claims of deferred tax are required to be adjusted for the 2004-09 tariff period.

57. 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 it has a single PAN and there is no provision in the 1961 Act to file separate returns on the basis of nature of business being undertaken by any entity. All the documents in support of income tax (either returns or assessment orders) are for the Petitioner as a whole. The Auditor's Certificate clearly showing income from transmission income and income from other segments along with copy of assessment order/ income tax return which are relevant to derive the effective tax rate has already been submitted in Petition No. 24/TT/2020. Further, the region wise Balance Sheet and Profit and Loss Accounts for Northern Region 1 for 2014-19, Northern Region 2 for 2014-19 and Northern Region 3 for 2016-19 and Cost Audit Report for 2017-18, 2018-19 are enclosed as Enclosure-2A, Enclosure-2B, Enclosure-2C and Enclosure-2D *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 2014-15, 2015-16 and 2016-17 periods. The income tax due for 2017-18 and 2018-19 periods



has been deposited and tax returns have already been filled, however assessment orders are yet to be received. The Petitioner has further submitted that after deducting depreciation and tax holiday benefit under normal provision, the income tax for the respective year has been calculated along with surcharge and cess, which works out to be in the range of 33.99% to 34.944% during 2014-15 to 2018-19. In case, the tax computed under normal provision is less than the tax calculated on book profit at the percentage prescribed under Section 115 JB (Minimum Alternate Tax) of the 1961 Act then the Petitioner has to pay tax computed as per the provisions of Section 115 JB of the 1961 Act which works out between 20.96% to 21.5488%. The Petitioner has submitted that Form-3 is a system generated form and due to a system error/constraint the header in Form-3 displays 0.00 instead of blank and the actual effective tax rate used for grossing up RoE is provided in Form 8. The Petitioner has submitted that it is eligible for claiming the deferred tax liabilities for the period up to 31.3.2009 on materialization on subsequent period i.e. financial year 2009-10 onwards. The Petitioner has further submitted that it is only claiming the reimbursement of Income tax liability, discharged as per the provisions of Income Tax Act, 1961.

58. UPPCL submitted that for 2016-17 to 2018-19 periods, the grossed up rates of interest on equity have not been calculated on the basis of MAT rates approved by the Income Tax (I.T.) authorities. UPPCL has requested to direct the Petitioner to recalculate and submit the figure of RoE for the 2016-17 to 2019-20 periods on the basis of revised grossed up rate of RoE arrived at according to MAT rates approved by I.T. Authorities. In response, the Petitioner has submitted that the effective rate of tax considered for 2014-15, 2015-16 and 2016-17 periods are based on Assessment Order issued by I.T. authorities, for the purpose of grossing up of RoE rate. Further, the effective rate of tax considered for 2017-18 and 2018-19 periods are based on the



ITRs filed, for the purpose of grossing up of RoE rate of respective years. Further, the Petitioner has submitted that so far, it has been granted trued-up tariff of the 2014-19 period by the Commission *vide* order dated 18.4.2020 in Petition No. 247/TT/2019; order dated 27.4.2020 in Petition No. 274/TT/2019; order dated 23.4.2020 in Petition No. 245/TT/2019; and order dated 16.4.2020 in Petition No. 307/TT/2019 for the transmission assets, where effective tax rate based (for the 2014-19 tariff period) on notified MAT rates are considered for the purpose of grossing-up of rate of RoE. Accordingly, the tariff for each year of the 2014-19 tariff period is being determined by the Commission considering the effective tax percentage to arrive at grossed up RoE. The Petitioner has further submitted that the grossed up RoE and effective tax rate for the 2014-19 tariff period has already been determined by the Commission. The Petitioner has requested to allow the differential tariff on account of the trued-up RoE based on effective tax rate calculated on completion of Income-tax assessment/ re-assessment for the 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19 periods on receipt of the respective assessment orders, directly from the beneficiaries, on year to year basis as provided under the Regulations.

59. We have considered the submissions of the Petitioner and UPPCL and BRPL. The Commission *vide* order dated 27.4.2020 in Petition No. 274/TT/2019 had arrived at the effective tax rate for the Petitioner. The relevant portion of the order dated 27.4.2020 is as under:

*“26. We are conscious that the entities covered under MAT regime are paying Income Tax as per MAT rate notified for respective financial year under IT Act, 1961, which is levied on the book profit of the entity computed as per the Section 115JB of the IT Act, 1961. The Section 115JB(2) defines book profit as net profit in the statement of Profit & Loss prepared in accordance with Schedule-III of the Companies Act, 2013, subject to some additions and deductions as mentioned in the IT Act, 1961. Since the Petitioner has been paying income tax on income computed under Section 115JB of the IT Act, 1961 as per the MAT rates of the respective financial year, the notified MAT rate for respective financial year shall be considered as effective tax rate for the purpose of grossing up of RoE for truing up of the tariff of the 2014-19 tariff period in terms of the provisions of the 2014 Tariff Regulations. Interest imposed on any additional income*



tax demand as per the Assessment Order of the Income Tax authorities shall be considered on actual payment. However, penalty (for default on the part of the Assessee) if any imposed shall not be taken into account for the purpose of grossing up of rate of return on equity. Any under-recovery or over-recovery of grossed up rate on return on equity after truing up, shall be recovered or refunded to beneficiaries or the long-term transmission customers / DICs as the case may be on year to year basis.

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

<b>Year</b>	<b>Notified MAT rates (inclusive of surcharge &amp; cess) (%)</b>	<b>Effective tax (in %)</b>
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

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

<b>Year</b>	<b>Notified MAT rates (inclusive of surcharge &amp; cess) (in %)</b>	<b>Base rate of RoE (in %)</b>	<b>Grossed up RoE [Base Rate/(1-t)] (in %)</b>
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

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

	(₹ in lakh)				
<b>Particulars</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Opening Equity	1823.16	1823.16	1823.16	1823.16	1823.16
Additions	0.00	0.00	0.00	0.00	0.00



Closing Equity	1823.16	1823.16	1823.16	1823.16	1823.16
Average Equity	1823.16	1823.16	1823.16	1823.16	1823.16
RoE (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
<b>RoE</b>	<b>357.52</b>	<b>359.25</b>	<b>359.25</b>	<b>359.25</b>	<b>360.22</b>

62. Accordingly, RoE approved *vide* order dated 14.3.2016 in Petition No. 193/TT/2014, claimed by the Petitioner in the instant petition and true up RoE is shown in the table that follows:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
<b>Asset-I</b>					
Approved <i>vide</i> order dated 14.3.2016 in Petition No. 193/TT/2014	357.52	357.52	357.52	357.52	357.52
Claimed by the Petitioner in the instant petition	357.80	359.44	359.25	359.25	360.22
Allowed after true-up in this order	357.52	359.25	359.25	359.25	360.22

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

63. Regulation 29(3) of the 2014 Tariff Regulations specifies the norms for O&M Expenses for the transmission elements. Norms specified in respect of the elements covered in the transmission assets are as under:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
<b>Sub-station bays</b>					
400 kV					
Number of bays	7	7	7	7	7
Norms (₹ lakh/bay)	60.30	62.30	64.37	66.51	68.71
220 kV					
Number of bays	5	5	5	5	5
Norms (₹ lakh/bay)	42.21	43.61	45.06	46.55	48.1
<b>Transmission line</b>					
D/C Twin Conductor (km)	2.494	2.494	2.494	2.494	2.494
Norms (₹ lakh/km)	0.707	0.731	0.755	0.78	0.806
<b>Total O&amp;M Expense (₹ in lakh)</b>	<b>634.91</b>	<b>655.97</b>	<b>677.77</b>	<b>700.27</b>	<b>723.48</b>



64. We have considered the submissions made by the Petitioner. The O&M Expenses are determined in accordance with the norms specified in Regulation 29(3) of the 2014 Tariff Regulations and are allowed as under:

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
<b>O&amp;M Expenses</b>					
<b>Sub-station bays</b>					
400 kV					
Number of bays	7	7	7	7	7
Norms (₹ lakh/bay)	60.30	62.30	64.37	66.51	68.71
220 kV					
Number of bays	5	5	5	5	5
Norms (₹ lakh/bay)	42.21	43.61	45.06	46.55	48.1
<b>Transmission line</b>					
D/C Twin Conductor (km)	2.494	2.494	2.494	2.494	2.494
Norms (₹ lakh/km)	0.707	0.731	0.755	0.78	0.806
<b>Total O&amp;M Expense (₹ in lakh)</b>	<b>634.91</b>	<b>655.97</b>	<b>677.77</b>	<b>700.27</b>	<b>723.48</b>

65. Accordingly, O&M Expenses approved *vide* order dated 14.3.2016 in Petition No. 193/TT/2014 earlier, claimed by the Petitioner in the instant petition and true up O&M Expenses is shown in the table below:

(₹ 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. 193/TT/2014	634.91	655.97	677.77	700.27	723.48
Claimed by the Petitioner in the instant petition	634.91	655.97	677.77	700.27	723.48
Allowed after true-up in this order	634.91	655.97	677.77	700.27	723.48

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

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





(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
O&M Expenses (O&M Expenses for 1 month)	52.91	54.66	56.48	58.36	60.29
Maintenance Spares (15% of O&M Expenses)	95.24	98.40	101.67	105.04	108.52
Receivables (Equivalent to 2 months of annual fixed cost)	244.00	203.06	204.45	208.08	212.07
<b>Total Working Capital</b>	<b>392.15</b>	<b>356.12</b>	<b>362.60</b>	<b>371.48</b>	<b>380.88</b>
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
<b>Interest on Working Capital</b>	<b>52.94</b>	<b>48.08</b>	<b>48.95</b>	<b>50.15</b>	<b>51.42</b>

67. Accordingly, IWC approved *vide* order dated 14.3.2016 in Petition No. 193/TT/2014, claimed by the Petitioner in the instant petition and trued up IWC is shown in the table below:

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
<b>Asset-I</b>					
Approved <i>vide</i> order dated 14.3.2016 in Petition No. 193/TT/2014	52.92	47.99	48.80	49.98	51.21
Claimed by the Petitioner in the instant petition	52.95	48.08	48.95	50.15	51.42
Allowed after true-up in this order	52.94	48.08	48.95	50.15	51.42

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

68. The trued up AFC for the Combined Asset for the 2014-19 tariff period are as follows:

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	363.73	127.16	127.16	127.16	127.16
Interest on Loan	54.92	27.88	13.56	11.67	10.14
RoE	357.52	359.25	359.25	359.25	360.22
IWC	52.94	48.08	48.95	50.15	51.42
O&M Expenses	634.91	655.97	677.77	700.27	723.48
<b>Total</b>	<b>1464.02</b>	<b>1218.34</b>	<b>1226.69</b>	<b>1248.49</b>	<b>1272.41</b>



69. Accordingly, the Annual Transmission Charges *vide* order dated 14.3.2016 in Petition No. 193/TT/2014, claimed by the Petitioner and as approved after truing up in the instant order is shown in the table below:

(₹ 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. 193/TT/2014	1463.26	1214.39	1220.21	1241.16	1263.16
AFC claimed by the Petitioner in the instant petition	1464.28	1218.47	1226.65	1248.45	1272.38
AFC allowed in the instant order	1464.02	1218.34	1226.69	1248.49	1272.41

### **Determination of Annual Fixed Charges for the 2019-24 Tariff Period**

70. The Petitioner has claimed the following transmission charges for the Combined Asset for the 2019-24 period:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	127.12	127.14	127.11	127.14	127.11
Interest on Loan	5.41	1.31	0.00	0.00	0.00
Return on Equity	360.22	360.22	360.22	360.22	360.22
IWC	32.23	33.09	33.97	34.91	35.80
O&M Expenses	569.60	589.73	610.28	631.86	653.28
<b>Total</b>	<b>1094.58</b>	<b>1111.49</b>	<b>1131.58</b>	<b>1154.13</b>	<b>1176.41</b>

71. The details of IWC claimed by the Petitioner for the Combined Asset for the 2019-24 tariff period as follows:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
O&M Expenses	47.47	49.14	50.86	52.66	54.44
Maintenance Spares	85.44	88.46	91.54	94.78	97.99
Receivables	134.58	137.03	139.51	142.29	144.64
<b>Total Working Capital</b>	<b>267.49</b>	<b>274.63</b>	<b>281.91</b>	<b>289.73</b>	<b>297.07</b>
Rate of Interest (%)	12.05	12.05	12.05	12.05	12.05
<b>Interest on Working Capital</b>	<b>32.23</b>	<b>33.09</b>	<b>33.97</b>	<b>34.91</b>	<b>35.80</b>

### **Capital Cost**

72. 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 tried up by excluding liability, if any, as on 1.4.2019;*
- (b) Additional capitalization and de-capitalization for the respective year of tariff as determined in accordance with these regulations;*
- (c) Capital expenditure on account of 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.”

73. The Petitioner has claimed capital cost of ₹7468.24 lakh for the Combined Asset, which is the same as worked out by the Commission. Accordingly, ₹7468.24 lakh has been considered as opening capital cost as on 1.4.2019 for determination of tariff in accordance with Regulation 19 of the 2019 Tariff Regulations.



74. The Petitioner has not claimed any projected ACE for the 2019-24 tariff period.

### **Debt-Equity Ratio**

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

**“18. Debt-Equity Ratio:** (1) For new projects, the debt-equity ratio of 70:30 as on date of commercial operation shall be considered. If the equity actually deployed is more than 30% of the Capital Cost, equity in excess of 30% shall be treated as normative loan:

Provided that:

- i. where equity actually deployed is less than 30% of the Capital Cost, actual equity shall be considered for determination of tariff:
- ii. the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment:
- iii. any grant obtained for the execution of the project shall not be considered as a part of capital structure for the purpose of debt: equity ratio.

**Explanation-**The premium, if any, raised by the generating company or the transmission licensee, as the case may be, while issuing share capital and investment of internal resources created out of its free reserve, for the funding of the project, shall be reckoned as paid up capital for the purpose of computing return on equity, only if such premium amount and internal resources are actually utilised for meeting the capital expenditure of the generating station or the transmission system.

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

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

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

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

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



(5) Any expenditure incurred or projected to be incurred on or after 1.4.2019 as may be admitted by the Commission as ACE for determination of tariff, and renovation and modernisation expenditure for life extension shall be serviced in the manner specified in clause (1) of this Regulation.”

76. The debt and equity considered for the purpose of tariff for 2019-24 tariff period is as under:

Particulars	Capital Cost as on 1.4.2014 (₹ in lakh)	(%)	Total Capital Cost as on 31.3.2019 (₹ in lakh)	(%)
Debt	5645.08	75.59	5645.08	75.59
Equity	1823.16	24.41	1823.16	24.41
<b>Total</b>	<b>7468.24</b>	<b>100.00</b>	<b>7468.24</b>	<b>100.00</b>

### **Depreciation**

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

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

*Provided that effective date of commercial operation shall be worked out by considering the actual date of commercial operation and installed capacity of all the units of the generating station or capital cost of all elements of the transmission project, for which single tariff needs to be determined.*

*(2) The value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission. In case of multiple units of a generating station or multiple elements of a transmission project, weighted average life for the generating station of the transmission project shall be applied. Depreciation shall be chargeable from the first year of commercial operation. In case of commercial operation of the asset for part of the year, depreciation shall be charged on pro rata basis.*

*(3) The salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the capital cost of the asset:*

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

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

*Provided also that the capital cost of the assets of the hydro generating station for the purpose of computation of depreciated value shall correspond to the percentage of sale of electricity under long-term power purchase agreement at regulated tariff:*



Provided also that any depreciation disallowed on account of lower availability of the generating station or unit or transmission system as the case may be, shall not be allowed to be recovered at a later stage during the useful life or the extended life.

(4) Land other than the land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset.

(5) Depreciation shall be calculated annually based on Straight Line Method and at rates specified in Appendix-I to these regulations for the assets of the generating station and transmission system:

Provided that the remaining depreciable value as on 31st March of the year closing after a period of 12 years from the effective date of commercial operation of the station shall be spread over the balance useful life of the assets.

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

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

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

78. The Combined Asset has already completed 12 years of life as on 31.3.2015, the remaining depreciable value has been spread over the balance useful life in accordance with Regulation 27(5) of the 2014 Tariff Regulations. The annual depreciation from 2015-16 and onwards is ₹127.16 lakh. The depreciation has been worked out considering the admitted capital expenditure as on 31.3.2019 and accumulated depreciation up to 31.3.2019. The depreciation allowed is as under:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Gross Block	7468.24	7468.24	7468.24	7468.24	7468.24
ACE	0.00	0.00	0.00	0.00	0.00
Closing Gross Block	7468.24	7468.24	7468.24	7468.24	7468.24
Average Gross Block	7468.24	7468.24	7468.24	7468.24	7468.24
Freehold Land	132.58	132.58	132.58	132.58	132.58
WAROD (%)	Spreading				
Balance useful life of the asset (Year)	9	8	7	6	5



Elapsed life at the beginning of the year (Year)	16	17	18	19	20
Depreciable Value	6602.09	6602.09	6602.09	6602.09	6602.09
<b>Depreciation during the year</b>	<b>127.16</b>	<b>127.16</b>	<b>127.16</b>	<b>127.16</b>	<b>127.16</b>
Cumulative Depreciation	5584.83	5711.98	5839.14	5966.30	6093.46
Remaining Depreciable Value	1017.27	890.11	762.95	635.79	508.63

### **Interest on Loan (IoL)**

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

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

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

*(3) The repayment for each of the year of the tariff period 2019-24 shall be deemed to be equal to the depreciation allowed for the corresponding year/period. In case of de-capitalization of assets, the repayment shall be adjusted by taking into account cumulative repayment on a pro rata basis and the adjustment should not exceed cumulative depreciation recovered upto the date of de-capitalisation of such asset.*

*(4) Notwithstanding any moratorium period availed by the generating company or the transmission licensee, as the case may be, the repayment of loan shall be considered from the first year of commercial operation of the project and shall be equal to the depreciation allowed for the year or part of the year.*

*(5) The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio after providing appropriate accounting adjustment for interest capitalized:*

*Provided that if there is no actual loan for a particular year but normative loan is still outstanding, the last available weighted average rate of interest shall be considered;*

*Provided further that if the generating station or the transmission system, as the case may be, does not have actual loan, then the weighted average rate of interest of the generating company or the transmission licensee as a whole shall be considered.*

*(6) The interest on loan shall be calculated on the normative average loan of the year by applying the weighted average rate of interest.*

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





80. UPPCL has submitted that since the COD of Combined Asset is 1.2.2003, the 12 years of useful life elapse on 1.2.2015. However, the Petitioner has claimed IoL for 2019-20 and 2020-21 periods. In response, the Petitioner has submitted that IoL has been calculated in line with the 2019 Tariff Regulations. UPPCL has further submitted that for the true-up of transmission tariff for the 2014-19 tariff period, the Petitioner has negotiated loans at fixed rate of interest per year. Therefore, the demand of the Petitioner for anticipated floating rate of interest during 2019-24 tariff period *prima facie* appears premature. In response, the Petitioner has submitted that loans with floating interest rate have been engaged in the transmission assets and hence the prayer to allow floating rate of interest has been placed in the Petition.

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

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Gross Normative Loan	5645.08	5645.08	5645.08	5645.08	5645.08
Cumulative Repayments up to Previous Year	5457.67	5584.83	5645.08	5645.08	5645.08
Net Loan-Opening	187.41	60.25	0.00	0.00	0.00
Additions	0.00	0.00	0.00	0.00	0.00
Repayment during the year	127.16	60.25	0.00	0.00	0.00
Net Loan-Closing	60.25	0.00	0.00	0.00	0.00
Average Loan	123.83	30.13	0.00	0.00	0.00
WAROL(%)	4.3754	4.3755	4.3755	4.3758	4.3758
<b>IoL</b>	<b>5.42</b>	<b>1.32</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>



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

82. Regulation 30 and Regulation 31 of the 2019 Tariff Regulations specify as under:

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

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

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

*Provided further that:*

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

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

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

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

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

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

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



(i.e. income from business other than business of generation or transmission, as the case may be) shall be excluded for the calculation of effective tax rate.

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

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

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

#### **Illustration-**

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

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

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

- (a) Estimated Gross Income from generation or transmission business for FY 2019-20 is Rs 1,000 crore;
- (b) Estimated Advance Tax for the year on above is Rs 240 crore;
- (c) Effective Tax Rate for the year 2019-20 = Rs 240 Crore / Rs 1000 Crore = 24%;
- (d) Rate of return on equity =  $15.50 / (1 - 0.24) = 20.395\%$ .

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

83. The Petitioner has submitted that MAT rate is applicable to the Petitioner's company. UPPCL has submitted that the Petitioner should consider the figures of equity and the rate of RoE on the basis of MAT rates approved by Income Tax Authorities. In response, the Petitioner vide affidavit dated 8.3.2021 has submitted that in the absence of IT assessment order pertaining to 2019-24 period, RoE has been



calculated @18.782% after grossing up the RoE with MAT rate of 17.472% (Base Rate 15% + Surcharge 12% + Cess 4%) based on the rate specified by the Commission as per illustration under Regulation 31(2)(ii) of the 2019 Tariff Regulations during the 2019-24 period. As per Regulation 31(3), the grossed up rate of RoE at the end of every financial year shall be trued up based on actual tax paid together with any additional tax demand including interest thereon duly adjusted for any refund of tax including interest received from the IT authorities pertaining to the 2019-24 tariff period on actual gross income of any financial year.

84. BRPL has submitted that as per Regulation 31(3) of the 2019 Tariff Regulations, the Petitioner has a statutory duty to undertake the true up of the grossed-up rate of RoE at the end of every financial year based on actual tax paid. The above statutory function delegated to the transmission licensee cannot be exercised unilaterally but required to be conducted in most impartial manner by summoning all the beneficiaries. In response, the Petitioner has submitted that the Petitioner pays income tax and files income tax returns in a timely manner. The final tax demand including additional tax, interest, penalty and adjustment for refunds, if any, is decided by the Income Tax Authority through its Assessment Orders, which are beyond the Petitioner's control. The Petitioner has further submitted that for the 2014-19 tariff period, the Commission vide order dated 27.4.2020 in Petition No. 274/TT/2019 has approved effective tax rate as notified MAT rates and for 2019-24 tariff period tariff has been admitted with grossing of rate of ROE 18.782% considering MAT rate of 17.472%. Further, any under recovery or over-recovery of grossed up rate on RoE is taken up at the time of true up for the 2019-24 period.

85. BRPL has further submitted that the Petitioner should clarify whether it is grossing up deferred tax amount while billing to beneficiaries and, if so, the same is



required to be refunded to beneficiaries. In response, the Petitioner *vide* affidavit dated 16.3.2021 has submitted that it has claimed deferred tax liability during the 2009-14 period only for the deferred tax liability up to 31.3.2009 and those that have materialized. Further, the Petitioner has submitted that deferred tax liability amount billed/ materialized is not considered while grossing up the RoE.

86. We have considered the submissions made by the Petitioner and UPPCL and BRPL. As regards UPPCL's observation regarding Petitioner's claim of RoE for the 2019-24 tariff period, it is observed that the Petitioner has claimed RoE @18.782% after grossing up the RoE with MAT rate of 17.472% based on the rate specified in the illustration under Regulation 31(2)(ii) of the 2019 Tariff Regulations. Further, the grossed up rate of RoE at the end of every financial year shall be trued up based on actual tax paid together with any additional tax demand including interest thereon duly adjusted for any refund of tax including interest received from the IT authorities pertaining to the 2019-24 tariff period on actual gross income of any financial year as provided in Regulation 31(3) of the 2019 Tariff Regulations. As regards BRPL's contention regarding the deferred tax liability, it observed that the Petitioner has considered the deferred tax liability only up to 31.3.2009 and has not considered deferred tax liability amount billed/ materialized while grossing up RoE. The Petitioner has satisfactorily clarified the issues raised by UPPCL and BRPL.

87. Accordingly, the MAT rate applicable for the 2019-20 period has been considered for the purpose of RoE, which shall be trued up with actual tax rate in accordance with Regulation 31(3) of the 2019 Tariff Regulations. RoE allowed for the Combined Asset is as under:



(₹ in lakh)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Equity	1823.16	1823.16	1823.16	1823.16	1823.16
Additions	0.00	0.00	0.00	0.00	0.00
Closing Equity	1823.16	1823.16	1823.16	1823.16	1823.16
Average Equity	1823.16	1823.16	1823.16	1823.16	1823.16
RoE 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 RoE (%)	18.782	18.782	18.782	18.782	18.782
<b>RoE</b>	<b>342.43</b>	<b>342.43</b>	<b>342.43</b>	<b>342.43</b>	<b>342.43</b>

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

88. The O&M Expenses for the Combined Asset claimed by the Petitioner are as under:

(₹ in lakh)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Transmission Line	2.20	2.28	2.35	2.44	2.52
Substation	563.14	583.19	603.67	625.16	646.50
O&M for PLCC (2% of ₹212.88)	4.26	4.26	4.26	4.26	4.26
<b>Total O&amp;M expenses</b>	<b>569.60</b>	<b>589.73</b>	<b>610.28</b>	<b>631.86</b>	<b>653.28</b>

89. The O&M Expenses norms specified under Regulation 35(3)(a) of the 2019 Tariff Regulations is 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
<i>Norms for sub-station Bays (₹ Lakh per bay)</i>					
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
<i>Norms for Transformers (₹ Lakh per MVA)</i>					
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
<b>Norms for AC and HVDC lines (₹ Lakh per km)</b>					
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-	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
<b>Norms for HVDC stations</b>					
HVDC Back-to-Back stations (Rs Lakh per 500 MW) (Except Gazuwaka BTB)	834	864	894	925	958
Gazuwaka HVDC Back-to-Back station (₹ Lakh per 500 MW)	1,666	1,725	1,785	1,848	1,913
500 kV Rihand-Dadri HVDC bipole scheme (Rs Lakh) (1500 MW)	2,252	2,331	2,413	2,498	2,586
±500 kV Talcher- Kolar HVDC bipole scheme (Rs Lakh) (2000 MW)	2,468	2,555	2,645	2,738	2,834
±500 kV Bhiwadi-Balia HVDC bipole scheme (Rs Lakh) (2500 MW)	1,696	1,756	1,817	1,881	1,947
±800 kV, Bishwanath-Agra HVDC bipole scheme (Rs Lakh) (3000 MW)	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  $\pm 500$  kV Talchar-Kolar HVDC bi-pole scheme (2000 MW);*

- iv. the O&M expenses of  $\pm 800$  kV Champa-Kurukshetra HVDC bi-pole scheme (3000 MW) shall be on the basis of the normative O&M expenses for  $\pm 800$  kV, Bishwanath-Agra HVDC bi-pole scheme;*
- v. the O&M expenses of  $\pm 800$  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  $\pm 800$  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 years.*

*(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.”*

90. We have considered the submissions 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 substation at the time of truing up of the tariff allowed for 2019-24 period in respective petitions.”*

Therefore, the Petitioner’s claim for separate O&M Expenses for PLCC @2% is not allowed.

91. The O&M Expenses allowed for the transmission assets is as under:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
<b>O&amp;M Expenses</b>					
<b>Sub-station bays</b>					
400 kV					



Number of bays	7	7	7	7	7
Norms (₹ lakh/bay)	32.15	33.28	34.45	35.66	36.91
220 kV					
Number of bays	5	5	5	5	5
Norms (₹ lakh/bay)	22.51	23.30	24.12	24.96	25.84
<b>Transformer</b>					
400 kV					
ICT I and ICT II at Allahabad (MVA)	630.00	630.00	630.00	630.00	630.00
Norms (₹ lakh/MVA)	0.358	0.371	0.384	0.398	0.411
<b>Transmission Line</b>					
D/C Twin Conductor (km)	2.494	2.494	2.494	2.494	2.494
Norms (₹ lakh/km)	0.881	0.912	0.944	0.977	1.011
<b>Total O&amp;M Expense (₹ in lakh)</b>	<b>565.34</b>	<b>585.46</b>	<b>606.02</b>	<b>627.60</b>	<b>649.02</b>

### **Interest on Working Capital**

92. Regulation 34(1)(c), Regulation 34(3) & (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;"

93. 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 RoI on working capital as 12.05%. IWC is worked out in accordance with Regulation 34 of the 2019 Tariff Regulations. The rate of IWC considered is 12.05% (SBI 1-year MCLR applicable as on 1.4.2019 of 8.55% plus 350 basis points) for 2019-20, whereas, rate of IWC 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 is as under:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
O&M Expenses (O&M Expenses for 1 month)	47.11	48.79	50.50	52.30	54.09
Maintenance Spares (15% of O&M Expenses)	84.80	87.82	90.90	94.14	97.35
Receivables (Equivalent to 45 days of annual transmission charges)	131.82	133.99	136.46	139.23	141.59
<b>Total Working Capital</b>	<b>263.73</b>	<b>270.60</b>	<b>277.87</b>	<b>285.67</b>	<b>293.02</b>
Rate of Interest (%)	12.05	11.25	11.25	11.25	11.25
<b>Interest on Working Capital</b>	<b>31.78</b>	<b>30.44</b>	<b>31.26</b>	<b>32.14</b>	<b>32.97</b>

#### **Annual Fixed Charges of the 2019-24 Tariff Period**

94. The transmission charges allowed for the Combined Assets for the 2019-24 tariff period are as below:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	127.16	127.16	127.16	127.16	127.16
Interest on Loan	5.42	1.32	0.00	0.00	0.00
Return on Equity	342.43	342.43	342.43	342.43	342.43
Interest on Working Capital	31.78	30.44	31.26	32.14	32.97
O&M Expenses	565.34	585.46	606.02	627.60	649.02
<b>Total</b>	<b>1072.12</b>	<b>1086.81</b>	<b>1106.87</b>	<b>1129.32</b>	<b>1151.57</b>



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

95. BRPL has submitted that though the Commission can allow filing fee and publication expenses at its discretion under Regulation 70(1) of the 2019 Tariff Regulations, but the exercise of such discretion is a judicial discretion in the adjudication of tariff for which no justification has been filed by the Petitioner. BRPL also referred to the Commission's order dated 11.9.2008 in Petition No. 129 of 2005 where it declined the claim of Central Power Sector undertakings for allowing the reimbursement of the application filing fee. The Petitioner, in response has requested for reimbursement of expenditure by the beneficiaries towards the petition filing fee and publication expense in terms of Regulation 70(1) of the 2019 Tariff Regulations. Further, the Petitioner also referred to the Commission's order dated 28.3.2016 in Petition No. 137/TT/2015 where it allowed the recovery of petition filing fee and expenditure for publication of notices from beneficiaries on *pro-rata* basis.

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

### **Licence Fee & RLDC Fees and Charges**

97. UPPCL has submitted that payment of licence fee is onus of the Petitioner. In response, the Petitioner *vide* affidavit dated 8.3.2021 has submitted that the license fee may be allowed to be recovered separately from the Respondents in terms of Regulation 70 of the 2019 Tariff Regulations. The fees and charges to be paid by the Petitioner as ISTS licensee (deemed ISTS licensee) under Central Electricity



Regulatory Commission (Fees and Charges of RLDC and other matters) Regulations as amended from time to time shall also be recoverable from the DICs as provided under Regulation 70(3) of the 2019 Tariff Regulations.

98. We have considered the submissions of the Petitioner and UPPCL. 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**

99. The Petitioner has submitted that, it shall be allowed to bill and recover GST on Transmission Charges separately from the Respondents, if GST on transmission is levied at any rate in future. Further, any taxes including GST and duties including cess etc. imposed by any statutory/ government/ municipal authorities shall be allowed to be recovered from the beneficiaries.

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

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



## **Security Expenses**

102. The Petitioner has submitted that security expenses for the transmission assets 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 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 the 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.

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

104. We have considered the submissions of the Petitioner and the Respondent, BRPL. 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 the Petition No. 260/MP/2020 claiming consolidated security expenses on projected basis for the 2019-24 tariff period on the basis of actual security expenses incurred in 2018-19. Therefore, security expenses will be dealt with in Petition No. 260/MP/2020 in accordance with the applicable provisions of the 2019 Tariff Regulations.



### **Capital Spares**

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 billing, collection and disbursement of the transmission charges approved shall be governed by the provisions of Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations 2010 or the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020, as applicable, as provided in Regulation 43 of the 2014 Tariff Regulations for the 2014-19 tariff period and Regulation 57 of the 2019 Tariff Regulations for the 2019-24 tariff period.

107. To summarise:

(a) The revised AFC allowed for the transmission assets for the 2001-04 and 2004-09 tariff periods are:

(₹ in lakh)

Particulars	2001-02 ( <i>pro-rata</i> )	2002-03 (1.4.2002-COD)	2002-03 (COD-31.3.2003)	2003-04
Asset-I	28.68	52.23	38.82	156.10
Asset-II	193.78	219.29	126.56	510.66
Asset-III	0.00	0.00	48.36	311.00
Asset-IV	0.00	0.00	68.03	289.99

(₹ in lakh)

Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
Asset-I	190.48	197.25	193.28	189.80	186.44
Asset-II	668.20	657.11	631.72	608.11	584.65
Asset-III	326.34	326.11	316.56	308.44	306.63
Asset-IV	303.34	307.70	298.89	291.44	284.11



(b) The consequential revision of AFC allowed for the Combined Asset for the 2009-14 tariff period are:

(₹ in lakh)					
Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
AFC	1561.73	1564.34	1559.16	1551.79	1551.07

(c) The trued-up AFC allowed for the Combined Asset for the 2014-19 tariff period are:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
AFC	1464.02	1218.34	1226.69	1248.49	1272.41

(d) AFC allowed for the Combined Asset for the 2019-24 tariff period in this order are:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
AFC	1072.12	1086.81	1106.87	1129.32	1151.57

108. The Annexure given hereinafter forms part of the instant order.

109. This order disposes of Petition No. 420/TT/2019.

sd/-  
(Prakash S. Mhaske)  
Member (Ex-officio)

sd/-  
(Pravas Kumar Singh)  
Member

sd/-  
(Arun Goyal)  
Member

sd/-  
(I. S. Jha)  
Member

sd/-  
(P. K. Pujari)  
Chairperson





**ANNEXURE-I**

2014-19	Admitted Capital Cost as on 1.4.2014/COD (₹ 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)
Capital Expenditure				2014-15
Land - Freehold	132.58	132.58	-	-
Land - Leasehold	-	-	3.34%	-
Building Civil Works & Colony	1331.37	1331.37	3.34%	44.47
Transmission Line	256.67	256.67	5.28%	13.55
Sub Station	5534.74	5534.74	5.28%	292.23
PLCC	212.88	212.88	6.33%	13.48
IT Equipment (Incl. Software)	-	-	5.28%	-
<b>Total</b>	<b>7468.24</b>	<b>7468.24</b>	<b>Total</b>	<b>363.73</b>
			<b>Average Gross Block (₹ in lakh)</b>	<b>7468.24</b>
			<b>Weighted Average Rate of Depreciation</b>	<b>4.87%</b>

\*Since the asset has completed 12 years of life as on 31.3.2015, the remaining depreciable value of ₹1653.06 lakh as on 31.3.2015 has been spread across the balance useful life of 13 years in accordance with Regulation 27(5) of the 2014. The annual depreciation from 2015-16 and onwards is ₹127.16 lakh

