

CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 471/TT/2020

Coram:

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

Date of Order : 09.06.2021

In the matter of:

Approval under Regulation 86 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for truing up of transmission tariff of 2014-19 period under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 and determination of transmission tariff for 2019-24 period under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for 220 kV Kishenganga-Amargarh D/C line on M/C tower under the scheme "Transmission System associated with Kishenganga HEP" in the Northern Region.

And in the matter of:

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

.....**Petitioner**

Vs

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



Caligiri Road, Malviya Nagar,
Jaipur-302017 (Rajasthan).

5. Himachal Pradesh State Electricity Board,
Vidyut Bhawan,
Kumar House Complex Building II,
Shimla-171004.
6. Punjab State Electricity Board,
Thermal Shed Tia,
Near 22 phatak, Patiala-147001.
7. Haryana Power Purchase Centre,
Shakti Bhawan, Sector-6,
Panchkula (Haryana) 134109.
8. Power Development Department,
Government of Jammu & Kashmir,
Mini Secretariat, Jammu.
9. Uttar Pradesh Power Corporation Ltd.,
(Formerly Uttar Pradesh State Electricity Board)
Shakti Bhawan, 14, Ashok Marg,
Lucknow-226001.
10. Delhi Transco Ltd.,
Shakti Sadan, Kotla Road,
New Delhi-110002.
11. BSES Yamuna Power Ltd.,
B- Block, Shakti Kiran Bldg. (Near Karkadooma Court),
Karkadooma 2nd Floor,
New Delhi-110092.
12. BSES Rajdhani Power Ltd.,
BSES Bhawan, Nehru Place,
New Delhi-110019.
13. Tata Power Delhi Distribution Ltd. (TPDDL),
NDPL House, Hudson Lines Kingsway Camp,
Delhi-110019.
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 A. K. Verma, PGCIL
Shri V. P. Rastogi, PGCIL
Shri B. Dash, PGCIL
Shri D. K. Biswal, PGCIL

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

ORDER

The instant petition has been filed by Power Grid Corporation of India Limited, a deemed transmission licensee, for truing up the tariff of the period from date of commercial operation to 31.3.2019 under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as “the 2014 Tariff Regulations”) and for determination of tariff under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (hereinafter referred to as “the 2019 Tariff Regulations”) for the period from 1.4.2019 to 31.3.2024 of 220 kV Kishenganga-Amargarh D/C Transmission Line on M/C tower (hereinafter referred to as “the transmission asset”) associated with the “Transmission System associated with Kishenganga HEP” (hereinafter referred to as “the transmission system”) in the Northern Region.

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

“1) Approve the actual Additional Capital expenditure incurred during the 2014-19 block and projected add cap during 2019-24 block, as claimed as per para 9.5 and 11.3 above.

2) Approve the trued up Transmission Tariff for 2014-19 block and transmission tariff for 2019-24 block for the assets covered under this petition, as per para 10.1 and 11.4 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 Hon'ble Commission as provided in Tariff Regulations, 2014 and Tariff regulations, 2019.

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 beneficiaries.

7) Allow the Petitioner to file a separate petition before the Hon'ble Commission for claiming the overall security expenses and consequential IOWC on that security expenses.

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

9) Allow the Petitioner to bill and recover GST on Transmission Charges separately from the beneficiaries, if GST on transmission is withdrawn from negative list at any time in future. Further, any taxes including GST and duties including cess etc. imposed by any statutory/Govt./municipal authorities shall be allowed to be recovered from the beneficiaries.

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

Backdrop of the petition

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

a. The scope of the transmission system was discussed and agreed in the 33rd Standing Committee Meeting of the Northern Region held on 23.12.2013 and in the 30th NRPC meeting held on 28.2.2014. The Investment Approval (IA) and expenditure sanction for the transmission system was accorded by Board of Directors of the Petitioner's company vide Memorandum dated 2.2.2015 at an estimated cost of ₹26880 lakh including IDC of ₹1658 lakh based on October, 2014 price level. The approval of Revised Cost Estimate (RCE) for the



transmission system was accorded by the Board of Directors of the Petitioner *vide* Memorandum dated 31.3.2017 at RCE of ₹34088 lakh including IDC of ₹1886 lakh (based on October, 2016 price level).

b. The scope of work covered under the transmission system is as follows:

Transmission Lines:

- i. Kishenganga-Amargarh 220 kV D/C line.
- ii. Kishenganga-Wagoora 220 kV D/C line.

Note: Due to right of way constraint near Kishenganga HEP, portion from Kishenganga to Amargarh T-point is being constructed as multi-circuit line. After Amargarh T-point, the lines will be constructed on D/C towers.

Sub-station Works:

- i. Wagoora (POWERGRID) 400/220 kV Sub-station
220 kV Line Bays - 2 Nos.
- ii. Amargarh (PDD, J&K) 220 kV Sub-station
220 kV Line Bays - 2 Nos.

c. The entire scope of the work covered under the IA has not been completed. The 220 kV D/C Kishenganga-Wagoora Transmission Line partially on M/C Towers was put into commercial operation on 31.7.2019 and is covered under Petition No. 599/TT/2020.

d. The details of the COD of the transmission asset along with the time over-run are as follows:

SCOD	COD	Time over-run	Time over-run condoned
1.7.2017	27.2.2018*	7 months 26 days	7 months 26 days

* COD was approved under proviso (ii) of Regulation 4(3) of the 2014 tariff regulations.

e. The transmission tariff was allowed for the transmission asset for the period from its COD to 31.3.2019 period *vide* order dated 25.4.2019 in Petition No. 124/TT/2018.

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



5. The Petitioner has served the petition on the Respondents and notice regarding filing of this petition was also published in the newspaper in accordance with Section 64 of the Electricity Act, 2003. No comments/objections have been received from the general public in response to the aforesaid notice published in the newspaper by the Petitioner. BSES Rajdhani Power Limited (BRPL), Respondent No.12, has filed its reply *vide* affidavit dated 19.4.2021 in which it has raised issues like RCE, Return on Equity (RoE), Deferred Tax Liability, recovery of tax on truing-up exercise of RoE, approval of statutory COD, Initial Spares, accrual IDC, adoption of Indian Accounting Standard 101, applicability and recovery of GST, recovery of security expenses, Interest on Working Capital (IWC) and recovery of application filing fee and the publication expenses. The Petitioner, *vide* its affidavit dated 3.5.2021, filed its rejoinder to the reply of BRPL.

6. Some of the issues raised by BRPL in its reply like RoE, recovery of tax on truing up exercise of RoE, accrual IDC, adoption of Indian Accounting Standard, applicability and recovery of GST recovery of security expenses and recovery of application filing fee and publication expenses have been raised by BRPL in almost all the replies filed in the tariff petitions filed by the Petitioner. The contentions of BRPL in those issues are similar in nature and the clarifications given by the Petitioner in its rejoinders are also similar in nature. As we have already, taking into consideration the concerns raised by BRPL and the clarifications given by the Petitioner, decided those issues in our earlier orders, we are of the view that no fresh discussions/ findings with regard to the above issues is required to be made in the present case. Therefore, in the instant petition we do not go into details of the contentions of the Respondents and the clarifications given by the Petitioner on issues where the Commission has already given its decision earlier. We have highlighted the issue raised by the



Respondents and the decision taken by the Commission. The issues which are specific to the instant petition and not dealt by the Commission earlier are considered in the relevant paragraphs of this order taking into consideration the submissions of the Respondents and the Petitioner.

7. The hearing in this matter was held on 20.4.2021 through video conference and the order was reserved.

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

Re: Adoption of IND AS

9. BRPL has submitted that adoption of IND AS 101 has resulted in increase of tariff. The Commission vide order dated 24.1.2021 in Petition No. 136/TT/2020 has already held that that the adoption of the new accounting standards by the Petitioner would not have any impact on the tariff as it is determined purely on the basis of the applicable tariff regulations. Therefore, we would not like go into the details of the submissions made by BRPL and the clarifications given by the Petitioner in this order.

Truing up of Annual Fixed Charges of the 2014-19 Period

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

Particulars	(₹ in lakh)	
	2017-18 (pro-rata for 33 days)	2018-19
Depreciation	51.74	616.12
Interest on Loan	60.58	726.39
Return on Equity	69.19	816.37
Interest on Working Capital	3.96	47.07
O&M Expenses	1.29	14.77
Total	186.76	2220.72



11. The details of the trued-up Interest on Working Capital (IWC) claimed by the Petitioner for the transmission asset are as follows:

Particulars	(₹ in lakh)	
	2017-18 (pro-rata for 33 days)	2018-19
O&M Expenses	1.19	1.23
Maintenance Spares	2.14	2.22
Receivables	344.28	370.12
Total Working Capital	347.61	373.57
Rate of Interest (%)	12.60	12.60
Interest on Working Capital	3.96	47.07

Capital Cost

12. The capital cost of the transmission project has been calculated in accordance with the Regulation 9(3) of the 2014 Tariff Regulations. The Commission vide order dated 25.4.2019 in Petition No. 124/TT/2018 had admitted capital cost of ₹12642.38 lakh as capital cost as on COD and projected ACE of ₹2035.76 lakh for determination of tariff for the 2014-19 period for the transmission asset. The details are as follows:

Apportioned approved cost as per RCE	Admitted Capital Cost as on COD	ACE		Admitted Capital Cost as on 31.3.2019
		2017-18	2018-19	
17833.68	12642.38	191.65	1844.11	14678.14

13. The Petitioner vide Auditor's Certificates has submitted the capital cost as on COD and ACE up to 31.3.2019 in respect of the transmission asset. The details of FR approved capital cost, capital cost as on COD and ACE incurred up to 31.3.2019 as claimed by the Petitioner in respect of the transmission asset are as follows:

Apportioned approved cost as per RCE	Capital Cost as on COD	Actual ACE		Capital Cost as on 31.3.2019
		2017-18	2018-19	
17833.68	13170.55	131.86	1201.42	14503.82



Cost over-run

14. BRPL has submitted that the Petitioner has filed RCE as the capital cost has increased and provided no justification for cost over-run of the project of this asset. Although no reasons have been cited for filing RCE, the RCE has been filed which is approved by the Competent Authority and the Petitioner has made no mention as to who the Competent Authority is. The perusal of RCE shows that it is merely an indication of revision of cost of various assets without furnishing any justification for increase in cost approved. BRPL has further submitted that even the power delegated to the Board of Directors of the Petitioner by the Department of Public Enterprise (DPE), Ministry of Heavy Industries and Public Enterprises, Government of India through its OM No. 26(3)/2005-GM-GL-92 dated 1.5.2008 and OM No. DPE/11(2)/97-Fin dated 22.7.1997 or anybody subordinate to it, cannot exercise the power of revision without mentioning the reasons and the justification of time and cost over-run. Any exercise if made without reasons and the justification of time and cost over-run would be arbitrary in nature and the Petitioner cannot claim tariff on the basis of such arbitrary exercise of power.

15. In response, the Petitioner has submitted that RCE along with proper justification of cost over-run was submitted during proceeding in original Petition No. 124/TT/2018 and same had been decided by the Commission in that Petition. RCE filed in instant petition is just to provide that overall asset cost is within RCE apportioned cost and there is no cost over-run. The Petitioner has further submitted that competent authority to approve RCE is the Board of Directors of the Petitioner Company as per the power delegated to it by DPE. The Petitioner has further submitted that the issue of time over-run has already been dealt with in detail and decided by the Commission in Petition No. 124/TT/2018 after considering the



submissions in detail made by Petitioner and the Respondents. Accordingly, issue of cost over-run and time over-run is already settled, and the allegations made by the Respondent are wrong and denied.

16. We have considered the submission made by BRPL and the clarifications given by the Petitioner. It is observed that taking into consideration the cost over-run and the RCE approved by the Board of Directors of the Petitioner Company, the Commission has approved COD of the transmission asset and ACE in order dated 25.4.2019 in Petition No. 124/TT/2018. Therefore, in our view there is no need to go again into the issue of capital cost in the instant order and it is dealt as per Regulation 19(3) of the 2014 Tariff Regulations. As mentioned above, the capital cost as on 31.3.2019 including ACE is within the RCE approved capital cost.

Time over-run

17. BRPL has submitted that the Petitioner had filed the petition for determination of tariff for the 2014-19 period which was allowed vide order dated 25.4.2019 in Petition No. 124/TT/2018. BRPL has further submitted that in the order dated 25.4.2019, the asset could not attain actual COD as there was delay in the commissioning of Kishenganga HEP and the Commission approved COD of the transmission asset under provisions of the second proviso to Regulation 4(3) of the 2014 Tariff Regulations. BRPL has submitted that the afore-mentioned proviso does not allow addition of capital cost into the project after the approval of COD.

18. BRPL has submitted that Regulation 9(6)(a) of the 2014 Tariff Regulations prohibits the inclusion of the asset which is not in use into the capital cost. BRPL has further submitted that in a 'cost-plus' mechanism of tariff determination, the capital cost of the asset which is not in use needs to be excluded. Accordingly, BRPL has



requested to re-visit the same in truing up the capital cost of this asset by its exclusion.

19. In response, the Petitioner has submitted that COD of the transmission asset was approved by the Commission under proviso (ii) of Regulation 4(3) of the 2014 Tariff Regulations. The Petitioner has further submitted that the basic substance of above Regulation is to approach the Commission for approval of COD of the assets in case it is prevented from regular service due to delay in commissioning of the concerned generating station or delay in COD of the upstream or downstream transmission system. The Petitioner has further submitted that once the transmission licensee has completed the scope of work, it is entitled to receive the transmission tariff of completed scope. The Petitioner had also submitted provisional CEA Certificate dated 22.2.2018, NRLDC letter dated 16.7.2018 with first time charging date as 25.2.2018, indicating intermittent power flow during trial run period and the CMD Certificate as required under Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010. The Petitioner has submitted that the Commission after considering the submissions made by Petitioner had approved the COD of the asset as 27.2.2018 in Petition No. 124/TT/2018 and directed NHPC (delay in the commissioning of Kishenganga HEP) to bear the transmission charges till commissioning of 1st unit i.e. 17.5.2018. Accordingly, the issue of commissioning of transmission asset has already been settled by Commission.

20. We have considered the submissions made by the Petitioner and the Respondent, BRPL. As per the IA dated 2.2.2015, the transmission asset was scheduled to be put into commercial operation within 29 months from the date of investment approval i.e. by 1.7.2017. However, the actual commissioning of the transmission asset is as follows:



Scheduled COD	Actual COD	Time over-run	Time Over-run Condoned
1.7.2017	27.2.2018	7 months 26 days	7 months 26 days

21. There is time over-run of 7 months 26 days. The Commission vide order dated 25.4.2019 in Petition No. 124/TT/2018 has already dealt with the issue of time over-run of 7 months 26 days in respect of the transmission asset and had condoned the entire time over-run.

Interest During Construction (IDC) and Incidental Expenditure During Construction (IEDC)

22. The Petitioner has claimed IDC of the transmission asset covered in the instant petition and has submitted the statement showing IDC claim and discharge of IDC liability as on date of commercial operation and thereafter as follows:

(₹ in lakh)			
IDC as per Auditor Certificate	IDC Discharged upto COD	IDC discharged during 2017-18	IDC discharged during 2018-19
801.21	480.78	59.79	260.63

23. The Petitioner has submitted IDC computation statement which consists of the name of the loan, drawl date, loan amount, interest rate and interest claimed. IDC is worked out based on the details given in the IDC statement. Further, the loan amount as on the date of commercial operation has been mentioned in Form 6 and Form 9C. The allowable IDC has been worked out based on the information available on record and by relying on loan amount as per Form 9C. IDC claimed and considered as on the date of commercial operation and summary of discharge of IDC liability up to date of commercial operation and thereafter for the purpose of tariff determination is as follows:



(₹ in lakh)

IDC as per Auditor certificate	IDC disallowed due to computational error	IDC allowed	IDC discharged up to COD	Un-discharged IDC as on COD	IDC discharged during 2017-18	IDC discharged during 2018-19
1	2	3=2-1	4	5	6	7
801.21	6.21	795.00	478.03	316.97	59.79	257.18

24. The Petitioner has claimed the following IEDC for the transmission asset and has submitted the Auditor Certificate in support of the claim. The Petitioner has submitted that the entire IEDC mentioned in the Auditor Certificate is on cash basis and was paid upto date of commercial operation.

(₹ in lakh)

IEDC claimed as per Auditor certificate	IEDC considered as on COD
428.50	428.50

25. IEDC claimed and considered as on the date of commercial operation for the purpose of tariff determination is as follows:

(₹ in lakh)

IEDC as per Auditor Certificate	IEDC allowed
428.50	428.50

Initial Spares

26. BRPL has submitted that the Petitioner has claimed re-calculation of the Initial Spares based on the capital cost of all assets in accordance with the judgment dated 14.9.2019 in Appeal No. 74 of 2017 pertaining to the tariff period 2009-14. BRPL has submitted that this petition is for true up of the tariff for the period 2014-19 as per Regulation 8(1) of the 2014 Tariff Regulations which does not allow the re-calculation of the Initial Spares based on the capital cost for the tariff period 2009-14. BRPL has further submitted that the decision on a question of law on which the judgment of the court is based on and if that decision of the court is reversed or modified by the



subsequent decision of a superior court in any other case, it shall not be a ground for review of such judgment.

27. BRPL has submitted that the APTEL's judgement dated 14.9.2019 in Appeal No. 74 of 2017 in Petition No. 53/TT/2015 was in the matter of truing of transmission tariff for 2009-14 tariff period and determination of transmission tariff for 2014-19 tariff period for Transmission System associated with Kudankulam Atomic Power Project in the Southern Region. Thus, the said judgment is clearly distinguishable from the present case in hand as APTEL did not render any finding on the issue of true up for the 2014-19. Besides this, the judgment also cannot be applied in this case of Northern Region.

28. In response, the Petitioner has stated that it had submitted the revised Auditor certificate dated 17.2.2020 as Initial Spares and estimated expenditure under the head "Land" was wrongly booked. The above inadvertent error was corrected and as per the revised auditor certificate, Initial Spares claimed for the transmission asset is within the specified limit under the 2014 Tariff Regulations and there is no excess Initial Spares claimed. However, the Petitioner in various petitions has been claiming the Initial Spares based on the total project capital cost as per APTEL's judgement dated 14.9.2019 in Appeal No. 74 of 2017 and that the Commission has allowed the Initial Spares based on the project capital cost.

29. The Petitioner vide affidavit dated 26.11.2020 has further submitted that both the transmission lines i.e. "Kishenganga-Amargarh" and "Kishenganga-Wagoora" are passing through the same multi-circuit portion and store for both transmission lines is also same i.e. at Wagoora Sub-station. Accordingly, some Initial Spares pertaining to Kishenganga-Wagoora Transmission Line was booked under Kishenganga-Amargarh



Transmission Line i.e. the transmission asset being considered in the instant petition inadvertently. The Petitioner has claimed the following revised Initial Spares:

(₹ in lakh)

Particulars	Total Plant & Machinery Cost (Excluding IDC, IEDC, Land Cost & Cost of civil Works)	Spare claimed	Ceiling Limit as Per Regulation 13 of the 2014 Tariff Regulations	Allowable	Excess
Transmission line	13165.71	131.60	1.00%	131.66	Nil
Sub-station	143.70	5.93	6.00%	8.79	Nil

30. The Petitioner, *vide* affidavit dated 5.2.2020, has submitted the discharge summary of Initial Spares, which is as follows:

(₹ in lakh)

Particulars	Up to COD	2018-19	2019-20	Total
Sub-station	NIL	5.53	0.40	5.93
Transmission Line	NIL	99.82	31.78	131.60

31. We have considered the submissions made by the Petitioner and BRPL. BRPL has contended that APTEL judgment in order dated 14.9.2019 in Appeal No. 74 of 2017 does not apply to the instant case. However, we note that the Petitioner has not claimed Initial Spares as per the judgement of APTEL in Appeal No. 74 of 2017. Therefore, there is no need to deliberate on this issue.

32. The Commission vide order dated 24.1.2021 in Petition No.126/TT/2020 has already considered PLCC to be a part of sub-station. Therefore, the Initial Spares have been computed by combining the cost of both PLCC and sub-station and allowed as per the norms specified for sub-station in the 2014 Tariff Regulations. The Initial Spares allowed for the transmission assets as per percentage specified in the 2014 Tariff Regulations is as follows:



Particulars	Plant and Machinery cost (excluding IDC/IEDC, Land cost & Cost of Civil Works) (₹ in lakh)	Initial Spares claimed (₹ in lakh)	Norms as per 2014 Tariff Regulations	Initial Spares allowable (₹ in lakh)	Initial Spares Allowed (₹ in lakh)
	A	B	C	$D=(A-B)*C/(100-C)$	
Transmission Line	13165.71	131.60	1.00%	131.66	131.60
Sub-station	143.70	5.93	6.00%	8.79	5.93

33. The details of the capital cost approved as on the date of commercial operation after adjustment of IDC and IEDC are as follows:

(₹ in lakh)

Capital Cost claimed as on COD vide Auditor's certificate (A)	Un-discharged IDC (B)	IDC Disallowed due to computational difference (C)	Capital Cost allowed as on COD (D) = (A-B-C)
13170.55	316.97	6.21	12847.37

Additional Capital Expenditure (ACE)

34. The Commission had allowed ACE of ₹2035.76 lakh for the transmission asset vide order dated 25.4.2019 in Petition No. 124/TT/2018. The Petitioner has claimed following ACE based on actual expenditure:

(₹ in lakh)

Actual ACE claimed vide Auditor's Certificate	
2017-18	2018-19
131.86	1201.42

35. The Petitioner has claimed that ACE incurred for the transmission asset is on account of balance and retention payments due to un-discharged liability for works executed within cut-off date and has claimed the same under Regulation 14(1)(i) of the 2014 Tariff Regulations.

36. BRPL has submitted that the Petitioner has claimed the accrual IDC in ACE during 2014-19 tariff period amounting to ₹59.51 lakh during 2017-18 and ₹259.42 lakh during 2018-19 which may be disallowed as there is no provision for ACE in the



2014 Tariff Regulations. In response, the Petitioner has submitted that in the instant case, IDC discharged during the 2017-18 & 2018-19 has been claimed along with ACE during the 2017-18 and 2018-19 respectively.

37. We have considered the submissions made by the Petitioner and the Respondent, BRPL. ACE claimed by the Petitioner has been allowed under Regulation 14(1)(i) of the 2014 Tariff Regulations. The un-discharged IDC liability as on date of commercial operation has been allowed as ACE during the year of its discharge. The allowed ACE is summarized as follows:

Particulars	Actual ACE	
	2017-18	2018-19
ACE allowed under Regulation 14(1)(i) of the 2014 Tariff Regulations	131.86	1201.42
Un-discharged IDC	59.79	257.18
Total	191.65	1458.6

38. The details of the capital cost and ACE approved up to 31.3.2019 in respect of the transmission asset are as follows:

Capital Cost admitted as on COD	ACE		Capital Cost as on 31.3.2019
	2017-18	2018-19	
12847.37	191.65	1458.60	14497.62

Debt-Equity ratio

39. The Petitioner has claimed debt-equity ratio of 70:30 as on the date of commercial operation. Debt-equity ratio of 70:30 is considered as provided under Regulation 19 of the 2014 Tariff Regulations. The details of the debt and equity as on the date of commercial operation and 31.3.2019 for the transmission asset considered for the purpose of tariff for the 2014-19 period is as follows:



Particulars	Capital Cost as on COD (₹ in lakh)	(%)	Capital Cost as on 31.3.2019 (₹ in lakh)	(%)
Debt	8993.16	70.00	10148.33	70.00
Equity	3854.21	30.00	4349.29	30.00
Total	12847.37	100.00	14497.62	100.00

Depreciation

40. The calculation of Weighted Average Rate of Depreciation (WAROD) is placed in Annexure-I. The Gross Block during the tariff period 2014-19 has been depreciated at WAROD (Annexure-I). WAROD has been worked out after taking into account the depreciation rates of assets as prescribed in the 2014 Tariff Regulations. The depreciation allowed for the transmission asset is as follows:

Particulars	(₹ in lakh)	
	2017-18 (Pro-rata for 33 days)	2018-19
Opening Gross Block	12847.37	13039.02
ACE	191.65	1458.60
Closing Gross Block	13039.02	14497.62
Average Gross Block	12943.20	13768.32
Freehold Land	2117.41	2117.41
Weighted Average Rate of Depreciation (WAROD) (%)	4.42	4.47
Balance useful life of the asset (Year)	35	35
Elapsed Life of the asset (Year)	0	0
Aggregated Depreciable Value	9743.21	10485.82
Combined Depreciation during the year	51.73	615.88
Aggregate Cumulative Depreciation at the end of the year	51.73	667.61
Remaining Aggregate Depreciable Value at the end of the year	9691.48	9818.21

41. The details of the depreciation allowed *vide* order dated 25.4.2019 in Petition No. 124/TT/2018, depreciation claimed by the Petitioner in the instant petition and trued up in the instant order are as follows:

Particulars	(₹ in lakh)	
	2017-18 (Pro-rata for 33 days)	2018-19
Approved <i>vide</i> order dated 25.4.2019 in Petition No. 124/TT/2018	50.99	617.08
Claimed by Petitioner in the instant petition	51.74	616.12
Allowed after true-up in this order	51.73	615.88



Interest on Loan (IoL)

42. The Petitioner has claimed the weighted average rate of IoL, based on its actual loan portfolio and rate of interest. Accordingly, IoL has been calculated based on actual interest rate submitted by the Petitioner, in accordance with Regulation 26 of the 2014 Tariff Regulations. IoL allowed for the transmission assets is as follows:

Particulars	(₹ in lakh)	
	2017-18 (Pro-rata for 33 days)	2018-19
Gross Normative Loan	8993.16	9127.32
Cumulative Repayments up to Previous Year	0.00	51.73
Net Loan-Opening	8993.16	9075.59
Additions	134.16	1021.02
Repayment during the year	51.73	615.88
Net Loan-Closing	9075.59	9480.73
Average Loan	9034.38	9278.16
Weighted Average Rate of Interest on Loan (%)	7.4157	7.8265
Interest on Loan	60.57	726.16

43. The details of IoL allowed *vide* order dated 25.4.2019 in Petition No. 124/TT/2018, IoL claimed by the Petitioner in the instant petition and trued up in the instant order are as follows:

Particulars	(₹ in lakh)	
	2017-18 (Pro-rata for 33 days)	2018-19
Approved <i>vide</i> order dated 25.4.2019 in Petition No. 124/TT/2018	692.96	723.16
Claimed by Petitioner in the instant petition	60.58	726.39
Allowed after true-up in this order	60.57	726.16

Return on Equity (RoE)

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



Year	Claimed effective tax rate (in %)	Grossed up RoE [Base Rate/(1-t)] (in %)
2014-15	21.018	19.624
2015-16	21.382	19.715
2016-17	21.338	19.704
2017-18	21.337	19.704
2018-19	21.549	19.757

45. BRPL has submitted that the information regarding Income Tax Assessment submitted by the Petitioner is in respect of the entire PGCIL and not in respect of the tax on the transmission business in respect of the Northern Region. Accordingly, the said information is not the relevant information for the purposes of effective tax rate. BRPL has submitted that infrastructure transmission companies have been allowed huge tax benefits under the Income Tax Act, 1961 (hereinafter referred to as “1961 Act”) in the form of Tax Holiday for enterprises engaged in infrastructure development etc. as per Section 80IA of the 1961 Act and other benefits like the higher depreciation allowed in initial years. BRPL has submitted that the Petitioner has already stated on affidavit that the effective tax rate is zero and accordingly the effective tax rate for the earlier tariff period (2009-14) would also be zero since the benefits of the tax holiday under Section 80IA of the 1961 Act and other benefits like the higher depreciation etc. were also applicable during earlier tariff period. Regulation 49 of the 2014 Tariff Regulations restricts the claim of tax amount only to deferred tax liabilities up to 31.3.2009 whenever it will materialize. BRPL has also submitted that the claims of deferred tax are required to be adjusted for the tariff period 2004-09.

46. In response, the Petitioner has submitted that that it does not file income tax return on transmission business in respect of a particular region as the company has a single PAN and there is no provision in the 1961 Act to file separate returns on the basis of nature of business being undertaken by any entity. All the documents in support of income tax (either returns or assessment orders) are for the Petitioner’s



company as a whole. The Auditor's Certificate clearly showing income from transmission income and income from other segments along with copy of assessment order/income return which 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 & Enclosure-2D in vide affidavit dated 10.8.2020 in Petition No. 24/TT/2020. The Petitioner has also submitted the said details in the instant petition as well. The Petitioner has submitted that it has computed effective tax rate based on actual tax paid pursuant to assessment orders for the years 2014-15, 2015-16 and 2016-17. The income tax due for 2017-18 and 2018-19 has been deposited and tax returns have already been filled, however assessment orders are yet to be received. 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 u/s 115JB (Minimum Alternate Tax) then the Company has to pay tax computed as per the provisions of section 115JB of the 1961 Act which works out between 20.96% to 21.5488%. 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.



47. We have considered the submissions made by the Petitioner and BRPL. The Commission vide order dated 24.1.2021 in Petition No. 136/TT/2020 has already dealt with the concerns of BRPL. The relevant portion of the order is as follows:

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

48. The Commission in order dated 27.4.2020 in Petition No. 274/TT/2019 has arrived at the effective tax rate for the Petitioner based on the notified MAT rates and the same is given in the table below.

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

49. The MAT rates as above are considered for the purpose of grossing up of rate of RoE for truing up of the tariff of the 2014-19 tariff period in terms of the provisions of the 2014 Tariff Regulations.



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

50. The Petitioner has claimed RoE for the 2014-19 period after grossing up RoE of 15.50% with Effective Tax rates (based on MAT rates) each year. RoE is trued up on the basis of the MAT rate applicable in the respective years. RoE allowed for the transmission asset is as follows:

(₹ in lakh)

Particulars	2017-18 (Pro-rata for 33 days)	2018-19
Opening Equity	3854.21	3911.71
Additions	57.50	437.58
Closing Equity	3911.71	4349.29
Average Equity	3882.96	4130.50
Return on Equity (Base Rate) (%)	15.500	15.500
MAT Rate for respective year (%)	21.342	21.549
Rate of Return on Equity (%)	19.705	19.758
Return on Equity	69.18	816.10

51. The details of RoE allowed *vide* order dated 25.4.2019 in Petition No. 124/TT/2018, RoE claimed by the Petitioner in the instant petition and trued up in the instant order are as follows:

(₹ in lakh)

Particulars	2017-18 (Pro-rata for 33 days)	2018-19
Approved <i>vide</i> order dated 25.4.2019 in Petition No. 124/TT/2018	67.75	809.27
Claimed by Petitioner in the instant petition	69.19	816.37
Allowed after true-up in this order	69.18	816.10

Operation & Maintenance Expenses (O&M Expenses)

52. The O&M Expenses claimed by the Petitioner for the transmission asset for the 2014-19 period are as follows:



Particulars	(₹ in lakh)	
	2017-18 (Pro-rata for 33 days)	2018-19
42.70 km D/C (Single Conductor) (220 kV Kishenganga-Amargarh D/C Line on M/C Towers)		
Total O&M Expenses Claimed	1.29	14.77

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

Element	Norms for 2017-18	Norms for 2018-19
Double Circuit Single Conductor	₹0.334 lakh/ km	₹0.346 lakh/ km

54. We have considered the submission of the Petitioner. The O&M Expenses allowed for the transmission asset as per norms specified in the 2014 Tariff Regulations are as follows:

Particulars	(₹ in lakh)	
	2017-18 (Pro-rata for 33 days)	2018-19
O&M Expenses	1.29	14.77

55. The details of O&M Expenses allowed *vide* order dated 25.4.2019 in Petition No. 124/TT/2018, O&M Expenses claimed by the Petitioner in the instant petition and trued up in the instant order are as follows:

Particulars	(₹ in lakh)	
	2017-18 (Pro-rata for 33 days)	2018-19
Approved <i>vide</i> order dated 25.4.2019 in Petition No. 124/TT/2018	1.27	14.77
Claimed by Petitioner in the instant petition	1.29	14.77
Allowed after true-up in this order	1.29	14.77



Interest on Working Capital (IWC)

56. IWC has been worked out as per the methodology provided in the Regulation 28 of the 2014 Tariff Regulations. The components of the working capital and the Petitioner's entitlement to interest thereon are discussed as follows:

i. Maintenance spares:

Maintenance spares have been worked out based on 15% of Operation and Maintenance Expenses specified in Regulation 28 of the 2014 Tariff Regulations.

ii. O & M Expenses:

O&M Expenses have been considered for one month of the allowed O&M Expenses.

iii. Receivables:

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

iv. Rate of interest on working capital:

Rate of interest on working capital is considered on normative basis in accordance with Clause (3) of Regulation 28 of the 2014 Tariff Regulations.

57. The details of the trued up IWC approved for the transmission asset is as follows:

Particulars	(₹ in lakh)	
	2017-18 (Pro-rata for 33 days)	2018-19
O&M Expenses (O&M Expenses for 1 month)	1.19	1.23
Maintenance Spares (15% of O&M Expenses)	2.14	2.22
Receivables (Equivalent to 2 months of annual fixed cost)	344.21	369.99
Total Working Capital	347.54	373.44
Rate of Interest (%)	12.60	12.60
Interest on Working Capital	3.96	47.05



58. The details of the IWC allowed *vide* order dated 25.4.2019 in Petition No. 124/TT/2018, IWC claimed by the Petitioner in the instant petition and trued up in the instant order are as follows:

Particulars	(₹ in lakh)	
	2017-18 (Pro-rata for 33 days)	2018-19
Approved <i>vide</i> order dated 25.4.2019 in Petition No. 124/TT/2018	17.86	46.87
Claimed by Petitioner in the instant petition	3.96	47.07
Allowed after true-up in this order	3.96	47.05

Approved Annual Fixed Charges for the 2014-19 Period

59. The trued up annual fixed charges allowed for the transmission asset for the 2014-19 period is as follows:

Particulars	(₹ in lakh)	
	2017-18 (Pro-rata for 33 days)	2018-19
Depreciation	51.73	615.88
Interest on Loan	60.57	726.16
Return on Equity	69.18	816.10
Interest on Working Capital	3.96	47.05
O&M Expenses	1.29	14.77
Total	186.72	2219.97

60. Accordingly, the Annual Transmission Charges allowed for the transmission asset *vide* order dated 25.4.2019 in Petition No.124/TT/2018, claimed by the Petitioner and approved after truing up in the instant order is shown in the table below:

Particulars	(₹ in lakh)	
	2017-18 (Pro-rata for 33 days)	2018-19
Approved <i>vide</i> order dated 25.4.2019 in Petition No. 124/TT/2018	830.83	2211.24
Claimed by Petitioner in the instant petition	186.76	2220.72
Allowed after true-up in this order	186.72	2219.97



61. The Annual Transmission Charges approved after truing up have increased in comparison to that approved earlier vide order dated 25.4.2019 in Petition No. 124/TT/2018 mainly due to variation in ACE.

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

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

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	712.10	769.29	769.29	769.29	769.29
Interest on Loan	779.74	782.88	726.85	671.14	609.12
Return on Equity	880.39	943.55	943.55	943.55	943.55
Interest on Working Capital	36.51	38.50	37.68	36.87	35.86
O&M Expenses	19.19	19.79	20.34	20.98	21.58
Total	2427.93	2554.01	2497.71	2441.83	2379.40

63. The Petitioner has claimed the following IWC for the transmission asset for the 2019-24 tariff period:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
O&M Expenses	1.60	1.65	1.70	1.75	1.80
Maintenance Spares	2.88	2.97	3.05	3.15	3.24
Receivables	298.52	314.88	307.94	301.05	292.55
Total Working Capital	303.00	319.50	312.69	305.95	297.59
Rate of Interest (%)	12.05	12.05	12.05	12.05	12.05
Interest on Working Capital	36.51	38.50	37.68	36.87	35.86

Capital Cost

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

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

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

- (a) *The expenditure incurred or projected to be incurred up to the date of commercial operation of the project;*
- (b) *Interest during construction and financing charges, on the loans (i) being*



equal to 70% of the funds deployed, in the event of the actual equity in excess of 30% of the funds deployed, by treating the excess equity as normative loan, or (ii) being equal to the actual amount of loan in the event of the actual equity less than 30% of the funds deployed;

- (c) Any gain or loss on account of foreign exchange risk variation pertaining to the loan amount availed during the construction period;
- (d) Interest during construction and incidental expenditure during construction as computed in accordance with these regulations;
- (e) Capitalised initial spares subject to the ceiling rates in accordance with these regulations;
- (f) Expenditure on account of additional capitalization and de-capitalisation determined in accordance with these regulations;
- (g) Adjustment of revenue due to sale of infirm power in excess of fuel cost prior to the date of commercial operation as specified under Regulation 7 of these regulations;
- (h) Adjustment of revenue earned by the transmission licensee by using the assets before the date of commercial operation;
- (i) Capital expenditure on account of ash disposal and utilization including handling and transportation facility;
- (j) Capital expenditure incurred towards railway infrastructure and its augmentation for transportation of coal upto the receiving end of the generating station but does not include the transportation cost and any other appurtenant cost paid to the railway;
- (k) Capital expenditure on account of biomass handling equipment and facilities, for co-firing;
- (l) Capital expenditure on account of emission control system necessary to meet the revised emission standards and sewage treatment plant;
- (m) Expenditure on account of fulfilment of any conditions for obtaining environment clearance for the project;
- (n) Expenditure on account of change in law and force majeure events; and
- (o) Capital cost incurred or projected to be incurred by a thermal generating station, on account of implementation of the norms under Perform, Achieve and Trade (PAT) scheme of Government of India shall be considered by the Commission subject to sharing of benefits accrued under the PAT scheme with the beneficiaries.

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

- (a) Capital cost admitted by the Commission prior to 1.4.2019 duly trued up by excluding liability, if any, as on 1.4.2019;
- (b) Additional capitalization and de-capitalization for the respective year of tariff as determined in accordance with these regulations;
- (c) Capital expenditure on account of renovation and modernisation as admitted by this Commission in accordance with these regulations;
- (d) Capital expenditure on account of ash disposal and utilization including handling and transportation facility;
- (e) Capital expenditure incurred towards railway infrastructure and its augmentation for transportation of coal upto 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 de-capitalised 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."*

65. The Petitioner has claimed capital cost of ₹14503.82 lakh as on 31.3.2019 for the transmission asset. However, the capital cost as on 31.3.2019 has been worked out as ₹14497.62 lakh and the same has been considered as the opening capital cost as on 1.4.2019 for determination of tariff in accordance with Regulation 19 of the 2019 Tariff Regulations.

Additional Capital Expenditure (ACE)

66. Regulation 24 of the 2019 Tariff Regulations provide as follows:

"24. Additional Capitalisation within the original scope and upto the cut-off date

(1) The additional capital expenditure in respect of a new project or an existing project incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:



- (a) *Undischarged liabilities recognized to be payable at a future date;*
- (b) *Works deferred for execution;*
- (c) *Procurement of initial capital spares within the original scope of work, in accordance with the provisions of Regulation 23 of these regulations;*
- (d) *Liabilities to meet award of arbitration or for compliance of the directions or order of any statutory authority or order or decree of any court of law;*
- (e) *Change in law or compliance of any existing law; and*
- (f) *Force Majeure events:*

Provided that in case of any replacement of the assets, the additional capitalization shall be worked out after adjusting the gross fixed assets and cumulative depreciation of the assets replaced on account of de-capitalization.

(2) The generating company or the transmission licensee, as the case may be shall submit the details of works asset wise/work wise included in the original scope of work along with estimates of expenditure, liabilities recognized to be payable at a future date and the works deferred for execution.”

67. The Petitioner has claimed ACE of ₹2273.13 lakh during 2019-24 for the transmission asset under Regulation 24(1)(a) and 24(1)(b) of the 2019 Tariff Regulations. The Petitioner has claimed ACE of ₹1264.40 lakh on account of Balance and Retention payment for works already executed under Regulation 24(1)(a) of the 2019 Tariff Regulations and ACE of ₹1008.73 lakh on account of unexecuted work within the cut-off date under Regulation 24(1)(b) of the 2019 Tariff Regulations. The Petitioner has claimed capital cost as on 31.3.2024 of ₹16776.95 lakh.

68. The Petitioner *vide* affidavit dated 26.11.2020 submitted that the estimated expenditure during 2019-20 has been revised to ₹2241.85 lakh from earlier estimated expenditure of ₹2273.13 lakh. The Petitioner submitted that the revision is due to inadvertently wrong booking of Initial Spares under transmission head and estimated cost to be incurred under the head “Land”.

69. The Petitioner submitted that the instant project consists of two transmission lines i.e.

- a) 220 kV Kishenganga - Amargarh D/C Transmission Line on M/C tower
(Covered under instant petition)



- b) 220 kV D/C Kishenganga - Wagoora Transmission Line partially on M/C Towers (Covered under Petition No. 599/TT/2020)

70. The Petitioner has submitted that both the Lines i.e “Kishenganga-Amargarh” & “Kishenganga-Wagoora” are passing through the same Multi Circuit portion. The store for both Lines is also same i.e. Wagoora Sub-station. Accordingly, some amount of Initial Spares pertaining to Kishenganga-Wagoora Transmission Line is booked under Kishenganga-Amargarh Transmission Line i.e. the transmission asset inadvertently. The Petitioner has further submitted that the estimated cost to be incurred under the head “Land” was also wrongly booked initially. However, the Petitioner has rectified the above error and submitted a revised auditor certificate and the revised capital cost claimed is as follows:

(₹ in lakh)		
Capital Cost as on 1.4.2019	Projected ACE for 2019-20	Total Capital Cost as on 31.3.2024
14503.82	2241.85	16745.68

71. The Petitioner further submitted that ACE of ₹2241.85 lakh during 2019-24 for the transmission asset has been claimed under Regulation 24(1)(a) and 24 (1)(b) of the 2019 Tariff Regulations. The Petitioner has claimed ACE of ₹1264.40 lakh on account of Balance and Retention payment for works already executed under Regulation 24(1)(a) of the 2019 Tariff Regulations and ACE of ₹977.45 lakh on account of unexecuted work within the cut-off date under Regulation 24(1)(b) of the 2019 Tariff Regulations.

72. We have considered the submissions made by the Petitioner. ACE claimed by the Petitioner has been allowed under Regulations 24(1)(a) and 24(1)(b) of the 2019 Tariff Regulations on account of balance and retention payments for works already executed and on account of unexecuted work within the cut-off date respectively.



Accordingly, the capital cost considered for the transmission asset for the 2019-24 tariff period is as follows:

Capital Cost as on 31.3.2019	(₹ in lakh)	
	ACE (including Initial Spares discharged) 2019-20	Capital Cost as on 31.3.2024
14497.62	2241.85	16739.47

Debt-Equity ratio

73. Regulation 18 of the 2019 Tariff Regulations provides as follows:

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

Provided that:

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

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

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

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

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

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



72 of these regulations.

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

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

74. The debt-equity considered for the purpose of computation of tariff for 2019-24 tariff period is as follows:

Particulars	Capital Cost as on 1.4.2019 (₹ in lakh)	%	Capital Cost as on 31.3.2024 (₹ in lakh)	%
Debt	10148.33	70.00	11717.63	70.00
Equity	4349.29	30.00	5021.84	30.00
Total	14497.62	100.00	16739.47	100.00

Depreciation

75. Regulation 33 of the 2019 Tariff Regulations provides as follows:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

76. 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 weighted average rate of depreciation (WAROD) has been worked out (Annexure-II) as per the rates of depreciation prescribed in 2019 Tariff Regulations. The depreciation allowed for the transmission asset for the transmission asset is as follows:



(₹ in lakh)

Particular	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Gross Block	14497.62	16739.47	16739.47	16739.47	16739.47
Projected ACE	2241.85	0.00	0.00	0.00	0.00
Closing Gross Block	16739.47	16739.47	16739.47	16739.47	16739.47
Average Gross Block	15618.55	16739.47	16739.47	16739.47	16739.47
Freehold Land	2161.99	2206.56	2206.56	2206.56	2206.56
Weighted Average Rate of Depreciation (WAROD) (%)	4.56	4.59	4.59	4.59	4.59
Balance useful life at the beginning of the year (Year)	34	33	32	31	30
Elapsed Life of the asset (Year)	1	2	3	4	5
Aggregated Depreciable Value	12110.91	13079.62	13079.62	13079.62	13079.62
Combined Depreciation during the year	711.76	768.96	768.96	768.96	768.96
Aggregate Cumulative Depreciation at the end of the year	1379.37	2148.33	2917.29	3686.25	4455.21
Remaining Aggregated Depreciable Value at the end of the year	10731.53	10931.29	10162.33	9393.37	8624.41

Interest on Loan (IoL)

77. Regulation 32 of the 2019 Tariff Regulations provides as follows:

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

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

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

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

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

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

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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.”

78. The Weighted Average Rate of IoL (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. Therefore, IoL has been allowed in accordance with Regulation 32 of the 2019 Tariff Regulations. IoL approved for the transmission asset for the 2019-24 tariff period is as follows:

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Gross Normative Loan	10148.33	11717.63	11717.63	11717.63	11717.63
Cumulative Repayments up to Previous Year	667.61	1379.37	2148.33	2917.29	3686.25
Net Loan-Opening	9480.73	10338.26	9569.30	8800.34	8031.38
Additions	1569.30	0.00	0.00	0.00	0.00
Repayment during the year	711.76	768.96	768.96	768.96	768.96
Net Loan-Closing	10338.26	9569.30	8800.34	8031.38	7262.42
Average Loan	9909.49	9953.78	9184.82	8415.86	7646.90
Weighted Average Rate of Interest on Loan (%)	7.8655	7.8623	7.9108	7.9719	7.9627
Interest on Loan	779.43	782.59	726.59	670.91	608.90

Return on Equity (RoE)

79. Regulation 30 and Regulation 31 of the 2019 Tariff Regulations provide as follows:

“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 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."*

80. The Petitioner has submitted that MAT rate is applicable to the Petitioner's company.

81. 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 Respondents.

82. In response, the Petitioner has submitted that the Petitioner pays the 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 at 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.

83. BRPL has 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 has submitted that it has claimed deferred tax liability during the period 2009-14 only for the deferred tax liability upto 31.3.2009 and those that have materialized. Further, the claim of deferred tax liability pertaining to transmission system on materialisation is supported with auditor certificate. The Petitioner has submitted that deferred tax liability amount billed/materialized is not considered while grossing up the RoE. Further, the deferred tax liability materialized only up to 31.3.2014 is claimed till date and the claim for deferred tax materialized for 2014-19 period is under process.

84. We have considered the submissions of the Petitioner and BRPL. As regards BRPL's contention that the annual truing up of RoE should be done by summoning all the Respondents, we would like to point out that there is no such requirement under Regulation 31 of the 2014 Tariff Regulations. We have considered the other contentions of BRPL. The MAT rate applicable in 2019-20 has been considered for the purpose of RoE, which shall be trued up with actual tax rate in accordance with Regulation 31(3) of the 2019 Tariff Regulations. RoE allowed for the transmission asset is as follows:



(₹ in lakh)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Equity	4349.29	5021.84	5021.84	5021.84	5021.84
Additions	672.56	0.00	0.00	0.00	0.00
Closing Equity	5021.84	5021.84	5021.84	5021.84	5021.84
Average Equity	4685.56	5021.84	5021.84	5021.84	5021.84
Return on Equity (Base Rate) (%)	15.500	15.500	15.500	15.500	15.500
MAT Rate for respective year (%)	17.472	17.472	17.472	17.472	17.472
Rate of Return on Equity (%)	18.782	18.782	18.782	18.782	18.782
Return on Equity	880.04	943.20	943.20	943.20	943.20

Operation & Maintenance Expenses (O&M Expenses)

85. Regulations 35(3) and 35(4) of the 2019 Tariff Regulations provides as follows:

“35. Operation and Maintenance Expenses:

...

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

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
<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
<i>Norms for AC and HVDC lines (₹ Lakh per km)</i>					
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-conductor)	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
<i>Norms for HVDC stations</i>					



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

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

Provided further that:

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

86. The O&M Expenses claimed by the Petitioner for the transmission asset for the 2019-24 period are as follows:

Name of the Asset	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
220 kV Kishenganga- Amargarh D/C transmission line on M/C towers(42.70 km Double Circuit Single Conductor)	16.10	16.70	17.25	17.89	18.49
PLCC (2% of ₹ 154.44 lakh)	3.09	3.09	3.09	3.09	3.09
Total O&M expenses	19.19	19.79	20.34	20.98	21.58

87. We have considered the submission of the Petitioner. The Petitioner has claimed O&M Expenses separately for the PLCC under Regulation 35(4) of the 2019 Tariff Regulation @2% of its original project cost in the instant petition and 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. It was placed before us that 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 O&M Expenses have been worked out as per the norms specified in the 2019 Tariff Regulations and are as follows: -

	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
O&M Expenses					
220 kV Kishenganga Amargarh D/C Transmission Line on M/C towers (42.70 km Double Circuit Single Conductor)					
Norms (₹ lakh/km)	0.377	0.391	0.404	0.419	0.433
Total	16.10	16.70	17.25	17.89	18.49
Total O&M expense allowed (₹ in lakh)	16.10	16.70	17.25	17.89	18.49

Interest on Working Capital (IWC)

88. Regulation 34(1)(c), Regulation 34(3), Regulation 34(4) and Regulation 3(7) of the 2019 Tariff Regulations specify as follows:

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

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

(i) *Receivables equivalent to 45 days of annual fixed cost;*

(ii) *Maintenance spares @ 15% of operation and maintenance expenses including security expenses; and*

(iii) *Operation and maintenance expenses, including security expenses for one month.*

(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. **Definition** - *In these regulations, unless the context otherwise requires:-*

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



89. The Petitioner has submitted that it has computed IWC for the 2019-24 period considering the SBI Base Rate plus 350 basis points as on 1.4.2019. The Petitioner has considered the rate of IWC as 12.05%.

90. IWC is worked out in accordance with Regulation 34 of the 2019 Tariff Regulations. The Rate of Interest (ROI) considered is 12.05% (SBI 1-year MCLR applicable as on 1.4.2019 of 8.55% plus 350 basis points) for 2019-20, whereas, ROI for 2020-21 onwards has been considered as 11.25% (SBI 1-year MCLR applicable as on 1.4.2020 of 7.75% plus 350 basis points). The components of the working capital and interest thereon allowed are as follows:

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
O&M Expenses (O&M Expenses for 1 month)	1.34	1.39	1.44	1.49	1.54
Maintenance Spares (15% of O&M Expenses)	2.41	2.50	2.59	2.68	2.77
Receivables (Equivalent to 45 days of annual transmission charges)	298.00	314.04	307.11	300.23	291.75
Total Working Capital	301.75	317.94	311.14	304.41	296.06
Rate of Interest (%)	12.05	11.25	11.25	11.25	11.25
Interest on Working Capital	36.36	35.77	35.00	34.25	33.31

Annual Fixed Charges for the 2019-24 Tariff Period

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

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	711.76	768.96	768.96	768.96	768.96
Interest on Loan	779.43	782.59	726.59	670.91	608.90
Return on Equity	880.04	943.20	943.20	943.20	943.20
Interest on Working Capital	36.36	35.77	35.00	34.25	33.31
O & M Expenses	16.10	16.70	17.25	17.89	18.49
Total	2423.70	2547.22	2491.01	2435.20	2372.86



Filing Fee and the Publication Expenses

92. The Petitioner has sought reimbursement of fee paid by it for filing the Petition and publication expenses. 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.

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

Licence Fee & RLDC Fees and Charges

94. 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.

Security Expenses

95. 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.

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

97. We have considered the submissions of the Petitioner and BRPL. We are of the view that the Petitioner should claim security expenses for all the transmission assets in one petition. The Commission observes 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.

Goods and Services Tax

98. The Petitioner has submitted that, if GST is levied at any rate and at any point of time in future on charges of transmission of electricity, the same shall be borne and additionally paid by the Respondent(s) to the Petitioner and the same shall be charged and billed separately by the Petitioner. BRPL has submitted that the demand of the Petitioner is premature and need not be considered at this juncture.



99. 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 the Petitioner's prayer is premature.

Capital Spares

100. 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

101. The Commission vide order dated 25.4.2019 in petition No.124/TT/2018 held as under:

"74. The transmission charges from 27.2.2018 to 17.5.2018 shall be borne by NHPC. With effect from 18.5.2018, the transmission charges allowed in this order shall be recovered on monthly basis in accordance with Regulation 43 of the 2014 Tariff Regulations. 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, as amended from time to time."

102. Accordingly, the transmission charges from 27.2.2018 to 17.5.2018 shall be borne by NHPC. The billing, collection and disbursement of the transmission charges approved shall be governed by the provisions of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 or the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020, as applicable, as provided in Regulation 43 of the 2014 Tariff Regulations for the 2014-19 tariff period and Regulation 57 of the 2019 Tariff Regulations for the 2019-24 tariff period.



103. To summarise:

(a) The trued-up Annual Fixed Charges allowed for the transmission asset for 2014-19 period are:

Particulars	(₹ in lakh)	
	2017-18 (Pro-rata for 33 days)	2018-19
Annual Fixed Charges	186.72	2219.97

(b) The Annual Fixed Charges allowed for the transmission asset for the 2019-24 tariff period in this order are:

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Annual Fixed Charges	2423.70	2547.22	2491.01	2435.20	2372.86

104. Annexure-I and Annexure-II given hereinafter form part of the order.

105. This order disposes of Petition No. 471/TT/2020 in terms of the above discussion and findings.

sd/-
(Pravas Kumar Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I. S. Jha)
Member

sd/-
(P. K. Pujari)
Chairperson



ANNEXURE-I

2014-19 Capital Expenditure	Admitted Capital Cost as on 1.4.2014/COD (₹ in lakh)	ACE (₹ in lakh)			Admitted Capital Cost as on 31.3.2019 (₹ in lakh)	Rate of Depreciation as per Regulations	Annual Depreciation as per Regulations (₹ in lakh)	
		2017-18	2018-19	Total			2017-18	2018-19
Land - Freehold	2117.41	-	-	-	2117.41	-	-	-
Transmission Line	10679.78	191.37	1423.84	1615.21	12294.99	5.28%	568.94	611.59
Sub Station	-	-	-	-	-	5.28%	-	-
PLCC	50.19	0.28	34.75	35.03	85.22	6.33%	3.19	4.29
Total	12847.37	191.65	1458.60	1650.25	14497.62		572.13	615.88
Average Gross Block (₹ in lakh)							12943.20	13768.32
Weighted Average Rate of Depreciation							4.42%	4.47%



ANNEXURE-II

2019-24 Capital Expenditure	Admitted Capital Cost as on 1.4.2019 (₹ in lakh)	Projected ACE (₹ in lakh)		Admitted Capital Cost as on 31.3.2024 (₹ in lakh)	Rate of Depreciation as per Regulations	Annual Depreciation as per Regulations (₹ in lakh)				
		2019-20	Total			2019-20	2020-21	2021-22	2022-23	2023-24
Land - Freehold	2117.41	89.15	89.15	2206.56	-	-	-	-	-	-
Land - Leasehold	-	-	-	-	3.34%	-	-	-	-	-
Building Civil Works & Colony	-	-	-	-	3.34%	-	-	-	-	-
Transmission Line	12294.99	2083.51	2083.51	14378.50	5.28%	704.18	759.18	759.18	759.18	660.50
Sub Station	-	-	-	-	5.28%	-	-	-	-	-
PLCC	85.22	69.19	69.19	154.41	6.33%	7.58	9.77	9.77	9.77	7.09
IT Equipment (Incl. Software)	-	-	-	-	15.00%	-	-	-	-	-
Total	14497.62	2241.85	2241.85	16739.47		711.76	768.96	768.96	768.96	768.96
Average Gross Block (₹ in lakh)						15618.55	16739.47	16739.47	16739.47	16739.47
Weighted Average Rate of Depreciation						4.56%	4.59%	4.59%	4.59%	4.59%

