

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 8/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: 17.05.2021

In the matter of:

Approval under Regulation 86 of Central Electricity Regulatory Commission (Conduct of Business) Regulations 1999 and revision of transmission tariff of the 2004-09 and 2009-14 tariff periods and truing up of transmission tariff of the 2014-19 period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2014 and determination of transmission tariff of the 2019-24 period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2019 for Combined Asset consisting of **Asset-I:** 400 kV D/C Agra-Bassi Transmission Line with associated bays; **Asset-II:** 3x105 MVA 400/220/33 kV ICT-III along with associated bays at Wagoora Sub-station; **Asset-III:** 220 kV Zainkot III & IV bays at Wagoora Sub-Station and **Asset-IV:** 40% FSC on Allahabad-Mainpuri 400 kV D/C line at Mainpuri under Transmission System associated with Northern Region System Strengthening Scheme-II in Northern Region.

And in the matter of:

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

.....Petitioner

Vs

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



4. Jodhpur Vidyut Vitran Nigam Ltd.
132 kV, GSS RVPNL Sub-Station Building,
Caligiri Road, Malviya Nagar, Jaipur-302017 (Rajasthan).
5. Himachal Pradesh State Electricity Board
Vidyut Bhawan, Kumar House Complex Building II,
Shimla-171004.
6. Punjab State Electricity Board
The Mall, Patiala-147001.
7. Haryana Power Purchase Centre
Shakti Bhawan, Sector-6,
Panchkula-134109 (Haryana).
8. Power Development Deptt.
Government of Jammu & Kashmir,
Mini Secretariat, Jammu.
9. Uttar Pradesh Power Corporation Ltd.
(Formerly Uttar Pradesh State Electricity Board),
Shakti Bhawan, 14, Ashok Marg,
Lucknow-226001.
10. Delhi Transco Ltd.
Shakti Sadan, Kotla Road,
New Delhi-110002.
11. BSES Yamuna Power Ltd.
BSES Bhawan, Nehru Place,
New Delhi.
12. BSES Rajdhani Power Ltd.
BSES Bhawan, Nehru Place,
New Delhi.
13. Tata Power Delhi Distribution Ltd.
33 kV Sub-station, Building,
Hudson Lane, Kingsway Camp,
North Delhi-110009.
14. Chandigarh Administration
Sector-9, Chandigarh.
15. Uttarakhand Power Corporation Ltd.
Urja Bhawan, Kanwali Road, Dehradun.



16. North Central Railway
Allahabad.

17. New Delhi Municipal Council
Palika Kendra, Sansad Marg,
New Delhi-110002.

.....Respondent(s)

For Petitioner: Shri M. G. Ramachandran, Senior Advocate, PGCIL
Ms. Ranjitha Ramachandran, Advocate, PGCIL
Shri Shubham Arya, Advocate, PGCIL
Shri S. S. Raju, PGCIL
Shri B. Dash, PGCIL
Shri V. P. Rastogi, PGCIL
Shri A. K. Verma, PGCIL

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

ORDER

The instant petition has been filed by Power Grid Corporation of India Ltd., a deemed transmission licensee, for revision of transmission tariff of the 2004-09 and 2009-14 tariff periods, for truing up of the capital expenditure for the period from 1.4.2014 to 31.3.2019 under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2014 (hereinafter referred to as “the 2014 Tariff Regulations”), and for determination of transmission tariff for the period from 1.4.2019 to 31.3.2024 under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations 2019 (hereinafter referred to as “the 2019 Tariff Regulations”) under Transmission System associated with Northern Region System Strengthening Scheme-II in the Northern Region (hereinafter referred to as the “transmission project”) for the Combined Asset consisting of:

Asset-I: 400 kV D/C Agra-Bassi Transmission Line with associated bays;



Asset-II: 3x105 MVA 400/220/33 kV ICT-III along with associated bays at Wagoora Sub-Station;

Asset-III: 220 kV Zainkot III & IV bays at Wagoora Sub-Station; and

Asset-IV: 40% FSC on Allahabad-Mainpuri 400 kV D/C line at Mainpuri (hereinafter collectively referred to as “the transmission assets”).

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

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

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

3) Allow the petitioner to recover the shortfall or refund the excess Annual Fixed Charges, on account of Return on Equity due to change in applicable Minimum Alternate/Corporate Income Tax rate as per the Income Tax Act, 1961 (as amended from time to time) of the respective financial year directly without making any application before the Commission as provided in Tariff regulations 2014 and tariff regulation’19 as per para 9.0 & 10 above for respective block.

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

4) Approve the reimbursement of expenditure by the beneficiaries towards petition filing fee, and expenditure on publishing of notices in newspapers in terms of Regulation 70 (1) Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019, and other expenditure (if any) in relation to the filing of petition.

5) Allow the petitioner to bill and recover Licensee fee and RLDC fees and charges, separately from the respondents in terms of Regulation 70 (3) and (4) Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019.

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

7) Allow the petitioner to recover FERV on the foreign loans deployed as provided under clause 68 of the Tariff Regulations, 2019

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

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

10) Allow the Petitioner to bill and recover GST on Transmission Charges separately from the respondents, if GST on transmission is withdrawn from negative list at any time



in future. Further, any taxes including GST and duties including cess etc. imposed by any statutory/Govt./municipal authorities shall be allowed to be recovered from the beneficiaries.

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

Background

3. The brief facts of the case are as follows:
- a. The Investment Approval for the transmission project was accorded by Board of Directors of the Petitioner Company *vide* Memorandum ref: C/CP/N69-00 dated 25.2.2004 at an estimated cost of ₹24778 lakh, including IDC of ₹1501 lakh (4th Quarter 2003 price level). Subsequently, the Board of Directors *vide* Memorandum ref: C/CP/RCE-NRSS-II dated 7.12.2007 accorded approval for Revised Cost Estimate (RCE) of ₹29281 lakh, including IDC of ₹1929 lakh (1st Quarter 2007 price level).
 - b. The entire scope of work as per IA is covered under the instant Petition. The date of commercial operation (COD) of Asset-I, Asset-II, Asset-III and Asset-IV was 1.1.2007, 1.6.2007, 1.4.2008 and 1.5.2011 respectively.
 - c. The transmission tariff for Asset-I was determined for the period from COD to 31.3.2009 *vide* order dated 23.5.2008 in Petition No. 135/2007 and it was revised due to Additional Capital Expenditure (ACE) *vide* order dated 9.6.2009 and 23.2.2010 in Petition No. 27/2009 and Petition No. 274/2009 respectively. The transmission tariff for Asset-II and Asset-III for the period from COD to 31.3.2009 was determined *vide* order dated 22.4.2009 in Petition No. 135/2008 which was revised due to ACE *vide* order dated 23.2.2010 in Petition No. 274/2009. Asset-I, Asset-II and Asset-III were combined into Combined Asset in the 2009-14 tariff period and tariff was approved *vide* order dated 11.1.2011 in Petition No. 163/2010. The transmission tariff for Asset-IV from its COD to 31.3.2014 was approved *vide* order dated 25.4.2013 in Petition No.33/TT/2011. The transmission tariff of the transmission assets for the 2009-14 tariff period was trued-up and transmission tariff for the 2014-19 tariff period was determined *vide* order dated 11.2.2016 in Petition No. 500/TT/2014.



- d. The Petitioner has sought revision of transmission tariff approved for the 2004-09 tariff period on account of change in Interest on Loan (IoL) and Interest on Working Capital (IWC) to the extent of revision in IoL and in Maintenance Spares in terms of the judgments of the Appellate Tribunal for Electricity (APTEL) dated 22.1.2007 and 13.6.2007 in Appeal Nos. 81/2005 and 139/2006 respectively, consequential revision of tariff allowed for the 2009-14 tariff period, truing up of tariff of the 2014-19 tariff period and determination of tariff of the 2019-24 tariff period for the transmission assets.
- e. APTEL judgments dated 22.1.2007 in Appeal No. 81/2005 and other related Appeals, and judgement dated 13.6.2007 in Appeal No. 139/2006 pertaining to generating stations of NTPC decided on, mainly, the following issues:
- (i) Computation of interest on loan
 - (ii) Consequences of refinancing of loan
 - (iii) Depreciation as deemed repayment
 - (iv) Admissibility of depreciation up to 90% of the value of the assets
 - (v) Consideration of maintenance of spares for working capital
 - (vi) Depreciation of assets
- f. The Commission and certain interested parties preferred Civil Appeals against the APTEL's judgments before the Hon'ble Supreme Court in 2007. The Appeals were admitted and initially stay was granted by the Hon'ble Supreme Court. Subsequently, on an assurance by NTPC that the issues under Appeal would not be pressed for implementation during the pendency of the Appeals, the stay was vacated by the Hon'ble Supreme Court.
- g. Based on APTEL's judgments dated 22.1.2007 and 13.6.2007, the Petitioner sought re-determination of tariff of its transmission assets for the 2001-04 and 2004-09 tariff periods vide Petition No. 121/2007. The Commission after taking into consideration the pendency of Appeals before the Hon'ble Supreme Court adjourned the said petition *sine die* and directed that the same be revived after the disposal of Civil Appeals by the Hon'ble Supreme Court.
- h. The Hon'ble Supreme Court *vide* its order dated 10.4.2018, dismissed the said Civil Appeals. Thus, the APTEL's judgments dated 22.1.2007 and 13.6.2007 has attained finality.
- i. Consequent to the Hon'ble Supreme Court's order dated 10.4.2018, Petition No. 121/2007 was listed for hearing before the Commission on 8.1.2019. The



Commission, *vide* order dated 18.1.2019 in Petition No. 121/2007, directed the Petitioner to submit its claim separately for the transmission asset at the time of filing of truing up of the petitions for the 2014-19 tariff period in respect of concerned transmission assets.

- j. The instant petition was heard on 31.3.2021 and in view of APTEL's judgments dated 22.1.2007 and 13.6.2007 and the order of Hon'ble Supreme Court dated 10.4.2018, tariff is being revised. Although period-wise tariff is being re-worked based on the Tariff Regulations applicable for the respective tariff periods, suitable assumptions at certain places, if any, are being applied which are being indicated.
- k. The capital cost of ₹20632.01 lakh in case of Asset-I was admitted as on COD *vide* order dated 23.5.2008 in Petition No. 135/2007; capital cost of ₹1217.04 lakh and ₹477.50 lakh in case of Asset-II and Asset-III respectively was admitted as on COD *vide* order dated 22.4.2009 in Petition No. 135/2008; capital cost of ₹2898.92 lakh in case of Asset-IV was admitted as on COD *vide* order dated 25.4.2013 in Petition No. 33/TT/2011. The tariff from COD was worked out based on the admitted capital cost as stated above. Accordingly, tariff is being revised for the 2004-09 and 2009-14 tariff periods in terms of the APTEL's judgement dated 22.1.2007 and 13.6.2007.

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

5. The Petitioner has served the petition on the Respondents and notice regarding filing of this petition has been published in the newspapers in accordance with Section 64 of the Electricity Act, 2003. No comments or objections have been received from the general public in response to the aforesaid notices published in the newspapers. Uttar Pradesh Power Corporation Limited (UPPCL), Respondent No. 9 *vide* affidavit dated 5.2.2020 submitted its reply and has raised the issues regarding depreciation, IoL, Return on Equity (RoE), O&M Expenses, licence fee and RLDC charges. BSES



Rajdhani Power Limited (BRPL), Respondent No. 12 *vide* affidavit dated 17.3.2021 submitted its reply preliminarily objecting to reopening of the tariff of 2004-09 and 2009-14 periods based on the APTEL's judgments stating that the Commission has become "*functus officio*". Further, BRPL has raised issues of RoE, Deferred Tax Liability, recovery of tax on truing-up exercise of RoE, 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 expenses. The Petitioner *vide* affidavit dated 23.12.2020 and 25.3.2021, filed rejoinder to the reply of UPPCL and BRPL. The Petitioner *vide* affidavit dated 23.7.2020 has filed information in response to the Technical Validation letter dated 2.7.2020. The Petitioner has further submitted additional information *vide* affidavit dated 30.3.2021.

6. BRPL has submitted that while reopening of the tariff of the 2004-09 and 2009-14 periods based on the APTEL's judgements, the Commission has considered only a portion of the Hon'ble Supreme Court judgment in the matter of U.P. Power Corporation Limited Vs. National Thermal Power Corporation Limited reported in (2009) 6 SCC 235 and not the entire judgment and the Commission may re-examine the issue of revising the tariff considering the entirety of the Hon'ble Supreme Court judgment and decide if the same is applicable to the facts of this petition. BRPL contended that the claim to increase the tariff is permissible only when the tariff is in force and not afterwards. Further, BRPL has submitted that the Commission may revisit order dated 6.11.2019 in Petition Nos. 288/TT/2019, 300/TT/2019, 301/TT/2019 and 305/TT/2019 in view of the facts, legal position and the judgment of the Hon'ble Supreme Court. In response, the Petitioner has submitted that the objection was raised by the Respondent in previous orders dated 31.7.2020 in Petition No.



288/TT/2019, dated 5.3.2021 in Petition No. 290/TT/2020 and the Commission allowed the revision of tariff for 2001-04, 2004-09 and 2009-14 tariff periods.

7. We have considered the submissions of the Petitioner and BRPL. BRPL has contended that having determined the tariff of the transmission assets, the Commission has become *functus officio* and cannot revise the tariff of the earlier periods on the basis of the judgment of APTEL and Hon'ble Supreme Court. It was placed before us that the Commission, by a combined order dated 6.11.2019 in Petition Nos. 288/TT/2019, 300/TT/2019, 301/TT/2019 and 305/TT/2019, has already rejected the contentions of BRPL. Relevant extract of the order dated 6.11.2019 is as follows:

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

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

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



“6.Considering the submissions of the learned counsel for the petitioner, we dispose of the present petition with the direction that the petitioner shall separately submit its claim in the light of the APTEL’s judgments dated 22.1.2007 and 13.6.2007 alongwith the truing up petitions wherever applicable to be filed for the period 2014-19 in respect of concerned transmission assets.”

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

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

9. This order is issued considering the submissions made by the Petitioner in the petition filed vide affidavit dated 17.10.2019, UPPCL’s and BRPL’s reply vide affidavit dated 5.2.2020 and 17.3.2021 respectively and the Petitioner’s rejoinders to UPPCL and BRPL vide affidavit dated 23.12.2020 and 25.3.3021 respectively and the Petitioner’s reply (to technical validation letter) vide affidavit dated 23.7.2020 and the Petitioner’s information filed vide affidavit dated 30.3.2021.

10. The hearing in this matter was held on 3.3.2021 and subsequently on 31.3.2021 through video conference and the order was reserved.

11. Having heard the representatives of the Petitioner and BRPL and BYPL (who adopted the reply and submissions made by BRPL on affidavit and during the hearing of the matter) and perused the material on record, we proceed to dispose of the petition.



12. APTEL while dealing with the issue of computation of IoL, in judgment dated 22.1.2007, observed that IoL for the period from 1.4.1998 to 31.3.2001 shall be computed only on normative loan repayment as per its judgment dated 14.11.2006 in Appeal No. 94 and Appeal No. 96 of 2005. APTEL vide its judgment dated 14.11.2006 had set aside the Commission's methodology of computation of loan on the actual repayment basis or normative repayment whichever is higher and held that the Commission is required to adopt normative debt repayment methodology for working out IoL liability. In view of the above, the interest allowed for the 2004-09 period is revised on the basis of the normative debt repayment methodology. The relevant portions of the judgment of 14.11.2006 is as follows:

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

13. In view of the above, the interest allowed for the 2004-09 tariff period is revised on the basis of the normative debt repayment methodology.



14. APTEL vide its judgment dated 13.6.2007 in Appeal No. 139/2006 and others held that ACE after COD should also be considered for computation of maintenance spares as follows:

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

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

(i) Deferred liabilities

(ii) Works deferred for execution

(iii) Procurement of initial capital spares in the original scope of work, subject to ceiling specified in regulation 17.

(iv) Liabilities to meet award of arbitration or for compliance of the order or decree of a court; and

(v) On account of change in law.

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

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

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

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



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

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

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

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

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

17. In view of the above directions of APTEL, the outstanding loan allowed for the transmission assets for the 2004-09 period is revised in the instant order.

18. We have considered the submissions. The revision of transmission tariff allowed for the 2004-09 tariff period necessitates the revision of transmission tariff allowed for the 2009-14 period, which is also allowed in the instant order. The implementation of the directions of APTEL in case of the Petitioner was kept pending outcome of the Civil Appeals filed before the Hon'ble Supreme Court. Taking into consideration the facts of the case and keeping in view the interest of the consumers, we are of the view that the beneficiaries should not be burdened with the carrying cost



for the difference in the tariff allowed earlier and allowed in the instant order for the 2004-09 and 2009-14 tariff periods. Therefore, the Petitioner will neither claim nor pay any carrying cost from the beneficiaries for the difference, if any, in the transmission tariff allowed earlier and that allowed vide instant order. Further, the said difference in transmission tariff shall be recovered/ paid over a period of six months from the date of issue of this order.

Revision of transmission charges allowed for the 2004-09 and 2009-14 Tariff

Periods

2004-09 Tariff Period

19. The transmission charges approved for the 2004-09 period for Asset-I vide order dated 23.5.2008 in Petition No. 135/2007 and for Asset-II and Asset-III vide order dated 22.4.2009 in Petition No. 135/2008 are as follows:

Asset-I

Particulars	(₹ in lakh)		
	2006-07 (<i>pro-rata</i> 3 months)	2007-08	2008-09
Depreciation	140.98	568.37	576.48
Interest on Loan	280.52	1102.99	1075.05
Return on Equity	216.65	872.77	883.81
Advance against Depreciation	0.00	0.00	0.00
Interest on Working Capital	17.96	72.25	73.66
O&M Expenses	57.16	237.41	247.27
Total	713.27	2853.78	2856.27

Asset-II

Particulars	(₹ in lakh)	
	2007-08 (<i>pro-rata</i> 10 months)	2008-09
Depreciation	38.38	53.82
Interest on Loan	65.28	88.52
Return on Equity	44.77	62.79
Advance against Depreciation	0.00	0.00
Interest on Working Capital	6.01	7.93
O&M Expenses	52.72	65.80
Total	207.16	278.86



Asset-III

(₹ in lakh)

Particulars	2008-09
Depreciation	19.40
Interest on Loan	33.22
Return on Equity	21.74
Advance against Depreciation	0.00
Interest on Working Capital	4.20
O&M Expenses	65.80
Total	144.36

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

Asset-I

(₹ in lakh)

Particulars	2006-07 (<i>pro-rata</i> 3 months)	2007-08	2008-09
Depreciation	140.98	568.37	576.48
Interest on Loan	281.89	1135.21	1150.91
Return on Equity	216.65	872.77	883.81
Advance against Depreciation	0.00	0.00	0.00
Interest on Working Capital	17.98	73.93	76.45
O&M Expenses	57.16	237.41	247.27
Total	714.67	2887.69	2934.92

Asset-II

(₹ in lakh)

Particulars	2007-08 (<i>pro-rata</i> 10 months)	2008-09
Depreciation	38.38	53.82
Interest on Loan	66.71	94.41
Return on Equity	44.77	62.79
Advance against Depreciation	0.00	0.00
Interest on Working Capital	6.10	8.43
O&M Expenses	52.72	65.80
Total	208.68	285.25

Asset-III

(₹ in lakh)

Particulars	2008-09
Depreciation	19.40
Interest on Loan	34.13
Return on Equity	21.74
Advance against Depreciation	0.00
Interest on Working Capital	4.27
O&M Expenses	65.80
Total	145.35

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21. UPPCL has requested to direct the Petitioner to submit details of calculation of rate of interest on loan for the period 2004-09 and 2009-14. In response, Petitioner *vide* affidavit dated 23.12.2020 has submitted that actual loan details given in orders of 2004-09 and 2009-14 have been considered for calculation of Weighted Average Rate of Interest (WAROI).

22. We have considered the submissions of UPPCL and the Petitioner's claim. The tariff is allowed for the transmission assets on the basis of the following:

a) The admitted capital cost of ₹20632.01 lakh in case of Asset-I was admitted as on COD *vide* order dated 23.5.2008 in Petition No. 135/2007; and capital cost of ₹1217.04 lakh and ₹477.50 lakh in case of Asset-II and Asset-III respectively was admitted as on COD *vide* order dated 22.4.2009 in Petition No. 135/2008.

b) WAROI on actual loan adopted from *vide* order dated 23.5.2008, 9.6.2009, 22.4.2009 and 23.2.2010 in Petition No. 135/2007, Petition No. 27/2009, Petition No. 135/2008 and Petition No. 274/2009 respectively.

c) With respect to calculation of IoL, moratorium period was availed by the Petitioner and no actual repayment of loan was made (during 2006-07 no actual repayment in case of Asset-I, during 2007-08 and 2008-09 there was no actual loan repayment in case of Asset-II and in case of Asset-III there was no actual loan repayment in 2008-09). Therefore, during the period wherein no actual loan repayment was made in respect of Asset-I, Asset-II and Assset-III, depreciation allowed has been considered as loan repayment in accordance with Regulation 56(i)(f) of the 2004 Tariff Regulations, the relevant extracts of which are reproduced as below:

“27 (i) Interest on Loan Capital

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

d) The Commission in orders dated 23.5.2008, 9.6.2009, 22.4.2009 and 23.2.2010 in Petition No. 135/2007, Petition No. 27/2009, Petition No. 135/2008 and Petition No. 274/2009 respectively had considered depreciation allowed as



loan repayment. Accordingly, in the instant petition also the same treatment has been considered for 2004-09 tariff period wherein no actual repayment of loan was made by the Petitioner.

e) Weighted Average Rate of Depreciation (WAROD), RoI on Working Capital and O&M Expenses as per order dated 23.5.2008, 9.6.2009, 22.4.2009 and 23.2.2010 in Petition No. 135/2007, Petition No. 27/2009, Petition No. 135/2008 and Petition No. 274/2009 respectively.

f) Actual ACE of ₹293.98 lakh in case of Asset-I in 2007-08 that was approved by the Commission *vide* order dated 9.6.2009 in Petition No. 27/2009, actual ACE of ₹124.32 lakh in case of Asset-II in 2007-08 that was approved by the Commission *vide* order dated 22.4.2009 in Petition No. 135/2008, actual ACE of ₹231.30 lakh in case of Asset-I, ₹307.15 lakh in case of Asset-II and ₹80.27 lakh in case of Asset-III in 2008-09 was approved by the Commission *vide* order dated 23.2.2010 in Petition No. 274/2009.

23. In view of the above, the revised transmission charges allowed for Asset-I, Asset-II and Asset-III for the 2004-09 period is as follows:

Asset-I

Particulars	(₹ in lakh)		
	2006-07 (<i>pro-rata</i> 3 months)	2007-08	2008-09
Depreciation	140.98	568.37	576.48
Interest on Loan	280.52	1124.45	1139.89
Return on Equity	216.65	872.77	883.81
Advance against Depreciation	0.00	0.00	0.00
Interest on Working Capital	17.96	72.77	75.23
O&M Expenses	57.16	237.41	247.27
Total	713.27	2875.78	2922.68

Asset-II

Particulars	(₹ in lakh)	
	2007-08 (<i>pro-rata</i> 10 months)	2008-09
Depreciation	38.38	53.82
Interest on Loan	65.28	88.52
Return on Equity	44.77	62.79
Advance against Depreciation	0.00	0.00
Interest on Working Capital	6.07	8.29



O&M Expenses	52.72	65.80
Total	207.22	279.21

Asset-III

(₹ in lakh)	
Particulars	2008-09
Depreciation	19.40
Interest on Loan	33.22
Return on Equity	21.74
Advance against Depreciation	0.00
Interest on Working Capital	4.25
O&M Expenses	65.80
Total	144.41

24. AFC allowed vide order dated 23.5.2008 in Petition No. 135/2007, revision of transmission tariff due to ACE vide order dated 9.6.2009 in Petition No. 27/2009 and vide order dated 23.2.2010 in Petition No. 274/2009 for the 2004-09 tariff period, revised AFC claimed by the Petitioner and AFC approved in the instant order is as follows:

Asset-I

(₹ in lakh)			
Particulars	2006-07 (pro-rata 3 months)	2007-08	2008-09
AFC approved vide order dated 23.5.2008 in Petition No. 135/2007, revision of transmission tariff due to ACE vide order dated 9.6.2009 in Petition No. 27/2009 and vide order dated 23.2.2010 in Petition No. 274/2009	713.27	2853.78	2856.27
AFC claimed by the Petitioner in the instant petition	714.67	2887.69	2934.92
AFC allowed in the instant order	713.27	2875.78	2922.68

Asset-II

(₹ in lakh)		
Particulars	2007-08 (pro-rata 10 months)	2008-09
AFC approved vide order dated 22.4.2009 in Petition No. 135/2008 and revision of transmission tariff due to ACE vide order dated 23.2.2010 in Petition No. 274/2009	207.16	278.86
AFC claimed by the Petitioner in the instant petition	208.68	285.25
AFC allowed in the instant order	207.22	279.21



Asset-III

Particulars	(₹ in lakh)
	2008-09
AFC approved <i>vide</i> order dated 22.4.2009 in Petition No. 135/2008 and revision of transmission tariff due to ACE <i>vide</i> order dated 23.2.2010 in Petition No. 274/2009	144.36
AFC claimed by the Petitioner in the instant petition	145.35
AFC allowed in the instant order	144.41

2009-14 Period

25. As stated above, Asset-I, Asset-III and Asset-III were combined into one asset by the Petitioner during the 2009-14 tariff period and the Commission *vide* order dated 11.1.2011 in Petition No. 163/2010 had approved the tariff for the Combined Asset for the 2009-14 tariff period. The tariff for the 2009-14 tariff period was trued up and tariff for the 2014-19 tariff period was approved *vide* order dated 11.2.2016 in Petition No. 500/TT/2014. The details of the trued up tariff of the 2009-14 tariff period is as follows:

(₹ in lakh)

Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	1237.67	1242.76	1246.09	1246.95	1246.95
Interest on Loan	1148.86	1059.63	966.19	869.07	770.61
Return on Equity	1311.70	1365.40	1370.38	1371.33	1387.86
Interest on Working Capital	102.51	103.33	103.10	102.73	102.74
O&M Expenses	508.37	537.49	568.27	600.73	635.01
Total	4309.11	4308.61	4254.02	4190.82	4143.16

26. The Petitioner has claimed the following revised revised AFC for the transmission assets for the 2009-14 tariff period in this petition:

(₹ in lakh)

Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	1237.67	1242.76	1246.09	1246.95	1246.95
Interest on Loan	1257.49	1168.73	1075.62	978.78	880.65
Return on Equity	1311.70	1365.40	1370.38	1371.33	1387.86
Interest on Working Capital	104.77	105.60	105.38	105.02	105.03
O&M Expenses	508.37	537.49	568.27	600.73	635.01
Total	4420.01	4419.98	4365.74	4302.81	4255.50



27. BRPL submitted that the true up has to be done based on actual tax rate applicable to the Petitioner and based on the truing up of tariff, if the recovered tariff exceeds the tariff approved, the Petitioner shall refund to beneficiaries along with simple interest. BRPL has further submitted that the transmission licensees have been allowed huge tax benefits under the Income Tax Act, 1961 (hereinafter referred to as “the 1961 Act”) in the form of Tax Holiday for enterprises engaged in infrastructure development etc. as per Section 80 IA of the 1961 Act as well as the other benefits like the higher depreciation allowed in initial years. However, the benefits arising out of the tax benefits were not determined without considering Regulation 15 of the 2009 Tariff Regulations. Further, BRPL submitted that the Petitioner was allowed the grossing up of RoE in order dated 11.2.2016 in Petition No. 500/TT/2014 and the claim for grossing up can be allowed only if the Petitioner can submit any document indicating payment of tax on its transmission business. Therefore, BRPL has submitted that the Commission may revisit the order to correct any incorrect decision in accordance with APTEL’s Judgment dated 12.5.2015 in Appeal No. 129 and batch of appeals.

28. In response, the Petitioner has submitted that in accordance with Regulation 15(3) of the 2009 Tariff Regulations, RoE shall be grossed up with MAT/ Corporate Income tax rate of the transmission licensee and not the tax rate of the assets or region.

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

- a) Admitted capital cost of ₹23363.57 lakh as on 1.4.2009.
- b) WAROI on actual loan derived/ adopted from order dated 11.2.2016 in Petition No. 500/TT/2014.
- c) WAROD as per order dated 11.2.2016 in Petition No. 500/TT/2014.



d) Actual ACE of ₹225.54 lakh that had been approved by the Commission *vide* order dated 11.2.2016 in Petition No. 500/TT/2014.

30. In view of the above, the revised AFC allowed for the transmission assets for the 2009-14 tariff period is as follows:

(₹ in lakh)

Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
Depreciation	1237.67	1242.76	1246.09	1246.95	1246.95
Interest on Loan	1237.33	1148.48	1055.31	958.43	860.22
Return on Equity	1311.70	1365.40	1370.38	1371.33	1387.86
Interest on Working Capital	104.35	105.18	104.95	104.60	104.61
O&M Expenses	508.37	537.49	568.27	600.73	635.01
Total	4399.42	4399.31	4345.00	4282.03	4234.65

31. AFC allowed *vide* order dated 11.1.2011 in Petition No. 163/2010 and subsequently *vide* order dated 11.2.2016 in Petition No. 500/TT/2014 for 2009-14 period, the revised AFC claimed in the instant petition and AFC approved in the instant order is as follows:

(₹ in lakh)

Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
AFC allowed earlier <i>vide</i> order dated 11.1.2011 in Petition No. 163/2010 and subsequently <i>vide</i> order dated 11.2.2016 in Petition No. 500/TT/2014	4309.11	4308.61	4254.02	4190.82	4143.16
AFC claimed by the Petitioner in the instant petition	4420.01	4419.98	4365.74	4302.81	4255.50
AFC allowed in the instant order	4399.42	4399.31	4345.00	4282.03	4234.65

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

32. The details of the trued-up transmission charges claimed by the Petitioner are as follows.

Combined Asset-I, Asset-II & Asset-III

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	1246.96	1246.96	1246.96	1246.96	1246.96
Interest on Loan	782.72	685.14	588.23	492.72	401.22
Return on Equity	1388.89	1395.26	1394.55	1394.55	1398.30



Interest on Working Capital	110.83	109.80	108.66	107.60	106.76
O&M Expenses	581.85	601.27	621.19	641.79	663.10
Total	4111.25	4038.43	3959.59	3883.62	3816.34

Asset-IV

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	152.78	154.94	157.11	157.11	157.11
Interest on Loan	131.69	121.29	110.77	98.05	85.67
Return on Equity	170.36	173.56	175.90	175.90	176.37
Interest on Working Capital	17.13	17.24	17.33	17.27	17.24
O&M Expenses	120.60	124.60	128.74	133.02	137.42
Total	592.56	591.63	589.85	581.35	573.81

33. The details of the trued up IWC claimed by the Petitioner are as follows:

Combined Asset-I, Asset-II & Asset-III

(₹ in lakh)

Particular	2014-15	2015-16	2016-17	2017-18	2018-19
O & M Expenses	48.49	50.11	51.77	53.48	55.26
Maintenance Spares	87.28	90.19	93.18	96.27	99.47
Receivables	685.21	673.07	659.93	647.27	636.06
Total Working Capital	820.98	813.37	804.88	797.02	790.79
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
Interest on Working Capital	110.83	109.80	108.66	107.60	106.76

Asset-IV

(₹ in lakh)

Particular	2014-15	2015-16	2016-17	2017-18	2018-19
O & M Expenses	10.05	10.38	10.73	11.09	11.45
Maintenance Spares	18.09	18.69	19.31	19.95	20.61
Receivables	98.76	98.60	98.31	96.89	95.64
Total Working Capital	126.90	127.67	128.35	127.93	127.70
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
Interest on Working Capital	17.13	17.24	17.33	17.27	17.24

Capital Cost as on 1.4.2014

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

35. BRPL has submitted that the Petitioner has opted for deemed cost exemption as per paragraph D7 AA of IND AS 101 'First time Adoption' of Indian Accounting



Standard which is resulting in mere increase of tariff. The adoption of Indian Accounting Standard is for the purposes of the Companies Act, 2013 and not for the purposes of the Tariff Regulations which provides its own procedure for computation of tariff. In response, the Petitioner vide affidavit dated 25.3.2021 has submitted that the Ministry of Corporate Affairs (MCA), in 2015, had notified the Companies (Indian Accounting Standards (IND AS) Rules 2015, which stipulated mandatory adoption and applicability of IND AS beginning from the accounting period 2016-17 for companies having net worth more than ₹500 crore. Accordingly, the Petitioner adopted IND AS w.e.f. 2015-16. As the Petitioner adopted IND AS from 2015-16 onwards, the Gross Block less Accumulated Depreciation as on 1.4.2015 is considered as deemed cost as on the date of transition i.e. 1.4.2015 in the books of accounts. As such, in case of assets which achieved COD before 1.4.2015, the gross block of the assets reflects gross block less accumulated depreciation as on 31.3.2015 in the books of accounts. There has been no change in the capital cost or Additional Capital Expenditure (ACE) considered for claiming transmission tariff on account of adoption of IND AS. For the purpose of computation of tariff, the actual capital cost and ACE has been claimed/ considered. Thus, there is no impact in tariff at all on account of adoption of IND AS at any point of time.

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

“35. We have considered the submissions of the Petitioner and BRPL. BRPL has contended that the new accounting standards adopted would result in higher tariffs. The Petitioner in response has clarified that the new standards adopted by it would not have any impact on the tariff to be determined by the Commission. The new accounting standards have been adopted by the Petitioner as per the requirement under the Companies Act, 2013. BRPL has merely stated adoption of new accounting standards would lead to higher tariff and has not stated how it would lead to higher



tariff. The tariff is determined for the transmission assets owned by the Petitioner on the basis of the applicable tariff regulations, in the instant case the 2014 Tariff Regulations and 2019 Tariff Regulations. As the tariff is determined on the basis of the tariff regulations, we are of the view that the adoption of the new accounting standards by the Petitioner would not have any impact on the tariff that is determined purely on the basis of the applicable tariff regulations.”

37. In terms of the above, the submission made by BRPL cannot be acceded to.

38. The Commission *vide* order 11.2.2016 in Petition No. 500/TT/2014 had allowed capital cost as on 1.4.2014 as well as on 31.3.2018 of ₹23589.11 lakh for Combined Asset-I, Asset-II & Asset-III and for Asset-IV had allowed capital cost as on 1.4.2014 of ₹2893.53 lakh and capital cost cost as on 31.3.2019 of ₹3250.28 lakh after including projected ACE of ₹356.75 lakh for determination of tariff for the 2014-19 tariff period for transmission assets. The same has been summarised as follows:

(₹ in lakh)

Admitted <i>vide</i> order dated 11.2.2016			ACE admitted during 2014-19 period	Admitted Capital Cost as on 31.03.2019
Name of Asset	Apportioned Approved cost as per RCE	Admitted Capital Cost as on 1.4.2014		
Combined Asset-I, Asset-II & Asset-III	25607.72	23589.11	0.00	23589.11
Asset-IV	3672.95	2893.53	356.75	3250.58

39. Therefore, the admitted capital cost of ₹23589.11 lakh for Combined Asset-I, Asset-II & Asset-III and ₹2893.53 lakh for Asset-IV as on 1.4.2014 has been considered for working out the trued-up tariff for the tariff period 2014-19.

Additional Capital Expenditure (ACE)

40. ACE of ₹356.75 lakh was allowed for Asset-IV in 2014-19 tariff period towards balance and retention payments to be made to BHEL for sub-station equipment.

41. The Petitioner has now claimed ACE of ₹81.97 lakh. The Petitioner has submitted that ACE claimed during 2015-16 for Asset-IV is on account of balance and retention payments due to contractual exigencies for works executed within the cut-off



date and is claimed under Regulation 14(3)(v) of the 2014 Tariff Regulations. The Petitioner has claimed following ACE based on actual expenditure:

Name of Asset	Admitted Capital Cost as on 1.4.2014	ACE claimed by the Petitioner	Total Capital Cost claimed as on 31.3.2019
		2015-16	
Combined Asset-I, Asset-II & Asset-III	23589.11	0.00	23589.11
Asset-IV	2893.53	81.97	2975.50

42. In response to Technical Validation letter, the Petitioner *vide* affidavit dated 23.7.2020 submitted that ACE of ₹81.97 lakh in Asset-IV is on account of balance and retention payment for works executed and is covered under Regulation 14(3)(v) of the 2014 Tariff Regulations. The Petitioner has further submitted that the payment was withheld due to contractual exigencies as there was a technical issue which was to be addressed by BHEL before the release of payment.

43. BRPL has submitted that the Petitioner has claimed an ACE amounting to ₹81.97 lakh during 2015-16 in respect of Asset-IV towards balance and retention payment, whereas this amount is subject to realization of L.D, as the contract is yet to be closed. Thus, there is no ACE during 2015-16 and therefore the claim is liable to be rejected. In response, the Petitioner has submitted that the adjustment of proposed LD is already done in order dated 11.2.2016 in Petition No. 500/TT/2014 and the final adjustment will be done at the time of truing-up of 2019-24 upon closure of the contract.

44. We have considered the submissions made by the Petitioner. ACE claimed by the Petitioner is allowed under Regulation 14(3)(v) of the 2014 Tariff Regulations. ACE allowed for the transmission assets from 1.4.2014 to 31.3.2019 is as follows:



(₹ in lakh)

Name of Asset	Admitted Capital Cost as on 1.4.2014	ACE	Total Capital Cost claimed as on 31.3.2019
		2015-16	
Combined Asset-I, Asset-II & Asset-III	23589.11	0.00	23589.11
Asset-IV	2893.53	81.97	2975.50

Debt-Equity Ratio

45. The debt-equity ratio has been allowed in accordance with Regulation 19(3) of the 2014 Tariff Regulations. As per Regulation 19(3) of the 2014 Tariff Regulations, the debt:equity ratio allowed by the Commission for determination of tariff for the period ending on 31.3.2014 shall be considered. Accordingly, the debt-equity ratio for the period ending on 31.3.2014, considered for the purpose of determination of tariff of the 2014-19 tariff period has been considered for the purpose of truing up of the tariff of the transmission assets for the 2014-19 tariff period. The details of the debt-equity ratio as on 1.4.2014 and 31.3.2019 is as follows:

Combined Asset-I, Asset-II & Asset-III

Particulars	Capital Cost as on 1.4.2014 (₹ in lakh)	(%)	Total Capital Cost as on 31.3.2019 (₹ in lakh)	(%)
Debt	16511.98	70.00	16511.98	70.00
Equity	7077.13	30.00	7077.13	30.00
Total	23589.11	100.00	23589.11	100.00

Asset-IV

Particulars	Capital Cost as on 1.4.2014 (₹ in lakh)	(%)	ACE during 2014-19 (₹ in lakh)	(%)	Total Capital Cost as on 31.3.2019 (₹ in lakh)	(%)
Debt	2025.47	70.00	57.38	70.00	2082.85	70.00
Equity	868.06	30.00	24.59	30.00	892.65	30.00
Total	2893.53	100.00	81.97	100.00	2975.50	100.00

Depreciation

46. UPPCL submitted that the capital cost is ₹23589.11 lakh and COD is 1.4.2008. Therefore, twelve years lapsed on 1.4.2020. The last day of life is 1.4.2041. The cumulative depreciation up to previous year as adopted by the Petitioner is ₹7617.86



lakh as on 1.4.2014 which should be ₹7618.51 lakh. UPPCL has requested to direct the Petitioner to rectify the figures of cumulative depreciation. The rate of depreciation considered by the Petitioner is 5.286168% which should be 2.73% since the life of equipment is 33 years ($90/33 = 2.73$). In response, the Petitioner *vide* affidavit dated 23.12.2020 has submitted that the opening cumulative depreciation as on 1.4.2014 is ₹7617.86 lakh and the same can be derived from tariff calculation of 2009-14 given in Encl.-5 of the petition. Further, depreciation computed is as per the 2014 Tariff Regulations.

47. We have considered the submissions of UPPCL and the Petitioner. The Gross Block during the 2014-19 tariff period has been depreciated at WAROD. WAROD (as placed in Annexure-1) has been worked out after taking into account the depreciation rates of assets as prescribed in the 2014 Tariff Regulations. Accordingly, depreciation allowed during the 2014-19 period is as follows:

Combined Asset-I, Asset-II & Asset-III

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Opening Gross Block	23589.11	23589.11	23589.11	23589.11	23589.11
Additional Capitalisation	0.00	0.00	0.00	0.00	0.00
Closing Gross Block	23589.11	23589.11	23589.11	23589.11	23589.11
Average Gross Block	23589.11	23589.11	23589.11	23589.11	23589.11
WAROD (%)	5.29	5.29	5.29	5.29	5.29
Balance useful life of the asset (Year)	27.00	26.00	25.00	24.00	23.00
Lapsed Life of the asset (Year)	6.00	7.00	8.00	9.00	10.00
Depreciable Value	21230.20	21230.20	21230.20	21230.20	21230.20
Depreciation during the year	1246.95	1246.95	1246.95	1246.95	1246.95
Cumulative Depreciation	8864.79	10111.74	11358.69	12605.65	13852.60
Remaining Depreciable Value	12365.41	11118.46	9871.50	8624.55	7377.60



48. Accordingly, depreciation approved for the Combined Asset-I, II & III *vide* order dated 11.2.2016 in Petition No. 500/TT/2014, claimed by the Petitioner in the instant petition and trued-up depreciation is as follows:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 11.2.2016 in Petition No. 500/TT/2014	1246.95	1246.95	1246.95	1246.95	1246.95
Claimed by the Petitioner in the instant petition	1246.96	1246.96	1246.96	1246.96	1246.96
Allowed after true-up in this order	1246.95	1246.95	1246.95	1246.95	1246.95

Asset-IV

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation					
Opening Gross Block	2893.53	2893.53	2975.50	2975.50	2975.50
Additional Capitalisation	0.00	81.97	0.00	0.00	0.00
Closing Gross Block	2893.53	2975.50	2975.50	2975.50	2975.50
Average Gross Block	2893.53	2934.52	2975.50	2975.50	2975.50
Weighted Average Rate of Depreciation (WAROD) (%)	5.28	5.28	5.28	5.28	5.28
Balance useful life of the asset (Year)	23.00	22.00	21.00	20.00	19.00
Lapsed Life of the asset (Year)	2.00	3.00	4.00	5.00	6.00
Depreciable Value	2604.18	2641.06	2677.95	2677.95	2677.95
Depreciation during the year	152.78	154.94	157.11	157.11	157.11
Cumulative Depreciation	592.00	746.94	904.05	1061.15	1218.26
Remaining Depreciable Value	2012.18	1894.12	1773.90	1616.80	1459.69

49. Accordingly, depreciation approved for Asset-IV *vide* order dated 11.2.2016 in Petition No. 500/TT/2014, claimed by the Petitioner in the instant petition and trued up depreciation is as follows:



(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 11.2.2016 in Petition No. 500/TT/2014	162.20	171.61	171.61	171.61	171.61
Claimed by the Petitioner in the instant petition	152.78	154.94	157.11	157.11	157.11
Allowed after true-up in this order	152.78	154.94	157.11	157.11	157.11

Interest on Loan (IoL)

50. UPPCL has submitted that the capital cost is ₹23589.11 lakh and the debt-equity ratio is 70:30 *vide* order dated 11.2.2016 in Petition No. 500/TT/2014. The debt works out to ₹16512.38 lakh. However the calculation of normative loan is wrong because the figure of cumulative depreciation taken for cumulative repayment of normative loans up to previous year is actually ₹7618.51 lakh as shown in table above instead of which the figure considered by the Petitioner is ₹6258.83 lakh which is wrong. UPPCL has requested to direct the Petitioner to re-work out IoL on the basis of proper figures of cumulative repayments of normative loans up to previous year. In response, the Petitioner *vide* affidavit dated 23.12.2020 has submitted that the opening cumulative repayment as on 1.4.2014 is ₹6258.85 lakh and same can be derived from tariff calculation of 2009-14 given in Enclosure-5 of the petition. Further, IoL computed is as per the 2014 Tariff Regulations.

51. We have considered the submissions of UPPCL and the Petitioner. The Petitioner has claimed the weighted average rate of IoL based on its actual loan portfolio and RoI. IoL has been calculated based on actual interest rate in accordance with Regulation 26 of the 2014 Tariff Regulations. Accordingly, the IoL allowed in respect of the transmission assets is as follows:



Combined Asset-I, Asset-II & Asset-III

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Gross Normative Loan	16511.98	16511.98	16511.98	16511.98	16511.98
Cumulative Repayments up to Previous Year	6511.05	7758.00	9004.95	10251.91	11498.86
Net Loan-Opening	10000.94	8753.98	7507.03	6260.07	5013.12
Additions	0.00	0.00	0.00	0.00	0.00
Repayment during the year	1246.95	1246.95	1246.95	1246.95	1246.95
Net Loan-Closing	8753.98	7507.03	6260.07	5013.12	3766.17
Average Loan	9377.46	8130.51	6883.55	5636.60	4389.64
Weighted Average Rate of Interest on Loan (%)	8.1282	8.1733	8.2434	8.3671	8.6437
Interest on Loan	762.21	664.53	567.44	471.62	379.43

52. Accordingly, IoL approved for Combined Asset-I, Asset-II & Asset-III vide order dated 11.2.2016 in Petition No. 500/TT/2014, claimed by the Petitioner in the instant petition and true up IoL is as follows:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Approved vide order dated 11.2.2016 in Petition No. 500/TT/2014	672.25	574.07	476.20	379.01	283.76
Claimed by the Petitioner in the instant petition	782.72	685.14	588.23	492.72	401.22
Allowed after true-up in this order	762.21	664.53	567.44	471.62	379.43

Asset-IV

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Gross Normative Loan	2025.47	2025.47	2082.85	2082.85	2082.85
Cumulative Repayments up to Previous Year	439.22	592.00	746.94	904.05	1061.15
Net Loan-Opening	1586.25	1433.47	1335.91	1178.80	1021.70
Additions	0.00	57.38	0.00	0.00	0.00
Repayment during the year	152.78	154.94	157.11	157.11	157.11
Net Loan-Closing	1433.47	1335.91	1178.80	1021.70	864.59
Average Loan	1509.86	1384.69	1257.36	1100.25	943.14
Weighted Average Rate of Interest on Loan (%)	8.7219	8.7594	8.8099	8.9112	9.0830
Interest on Loan	131.69	121.29	110.77	98.05	85.67



53. Accordingly, IoL approved for Asset-IV *vide* order dated 11.2.2016 in Petition No. 500/TT/2014, claimed by the Petitioner in the instant petition and trued up IoL is as follows:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 11.2.2016 in Petition No. 500/TT/2014	142.29	139.46	125.45	111.70	98.49
Claimed by the Petitioner in the instant petition	131.69	121.29	110.77	98.05	85.67
Allowed after true-up in this order	131.69	121.29	110.77	98.05	85.67

Return on Equity (RoE)

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

Year	Claimed effective tax rate (in %)	Grossed up RoE [Base Rate/(1-t)] (in %)
2014-15	21.018	19.625
2015-16	21.382	19.715
2016-17	21.338	19.705
2017-18	21.337	19.704
2018-19	21.549	19.758

55. UPPCL has submitted that the capital cost is ₹23589.11 lakh. The debt-equity ratio is 70:30 *vide* order dated 11.2.2016 in Petition No. 500/TT/2014. The opening value of equity for 2014-15 will be ₹7076.73 lakh. The rate of RoE for 2014-15 and 2015-16 are based on MAT rates approved by the I.T. Authority, therefore there is no objection regarding the figures of RoE for 2014-15 and 2015-16 as worked out by the Petitioner. However, UPPCL submitted that it may be observed that the grossed up rate of RoE for the period 2016-17 to 2018-19 has been worked out on the basis on presumptive MAT rates. UPPCL has requested to direct the Petitioner to resubmit the calculation of RoE based on MAT rates approved by the I.T. Authorities.



56. In response, the Petitioner submitted that effective rate of tax considered for the years 2014-15, 2015-16 and 2016-17 are based on Assessment Order issued by IT Authorities, for the purpose of grossing up of RoE rate. Further, the effective rate of tax considered for the years 2017-18 and 2018-19 are based on the IT returns filed, for the purpose of grossing up of RoE rates of respective years. The Petitioner has further submitted that the Commission has already trued up the tariff of 2014-19 tariff period vide order dated 18.4.2020 in Petition No. 247/TT/2019, order dated 27.4.2020 in Petition No. 274/TT/2019, order dated 23.4.2020 in Petition No. 245/TT/2019 and order dated 16.4.2020 in Petition No. 307/TT/2019 for transmission assets under the respective petitions, where following effective tax rate based (for 2014-19 tariff period) on notified MAT rates are considered for the purpose of grossing-up of RoE:

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

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



58. BRPL has submitted that the information regarding Income Tax Assessment submitted by the Petitioner is in respect of the Petitioner Company as a whole and not in respect of the tax on the transmission business in respect of the Northern Region. Accordingly, the said information is not relevant information for the purposes of effective tax rate. BRPL has submitted that infrastructure transmission companies have been allowed huge tax benefits under the 1961 Act in the form of Tax Holiday for enterprises engaged in infrastructure development etc. as per Section 80 IA of the 1961 Act and other benefits like the higher depreciation allowed in initial years. BRPL has submitted that the Petitioner has already stated on affidavit that the effective tax rate is zero and accordingly the effective tax rate for the earlier 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 2004-09 tariff period.

59. 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 vide affidavit dated 10.8.2020 in Petition No. 24/TT/2020. The Petitioner has submitted that it has computed effective tax rate based on actual tax paid pursuant to assessment orders for the years 2014-15, 2015-16 and 2016-17. The income tax due for 2017-18 and 2018-19 has been deposited and tax returns have already been filed, however assessment orders are yet to be received. The Petitioner has further submitted that after deducting depreciation and tax holiday benefit under normal provision, the income tax for the respective year has been calculated along with surcharge and cess, which works out to be in the range of 33.99% to 34.944% during 2014-15 to 2018-19. In case, the tax computed under normal provision is less than the tax calculated on book profit at the percentage prescribed under section 115 JB (MAT) then the Company has to pay tax computed as per the provisions of section 115 JB of the 1961 Act which works out between 20.96% to 21.5488%. The Petitioner has submitted that Form-3 is a system generated form and due to a system error/constraint the header in Form-3 displays 0.00 instead of blank and the actual effective tax rate used for grossing up RoE is provided in Form-8.

60. We have considered the submissions made by the Petitioner and BRPL and UPPCL. The Commission vide order dated 24.1.2021 in Petition No. 136/TT/2020 has already dealt with the concerns of the Respondents. The relevant paragraphs of the order are extracted 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.

53. As regards UPPCL's contention that the grossed up rate of RoE for the period 2016-17 to 2018-19 is not based on the MAT rates approved by the Income Tax Authorities, it is observed that the effective rate of tax considered by the Petitioner for 2014-15, 2015-16 and 2016-17 are based on Assessment Orders issued by Income Tax authorities and the effective rate of tax considered for 2017-18 and 2018-19 are based on the Income Tax returns filed for the purpose of grossing up the RoE rate of respective years. In view of the clarification given by the Petitioner, we are of the view that there is no merit in the contention of UPPCL."

61. In view of the above, the submission made by UPPCL and BRPL cannot be acceded to.

62. The Commission vide order dated 27.4.2020 in Petition No. 274/TT/2019 had arrived at the effective tax rate for the Petitioner based on the notified MAT rates and the same is given in the table below. The relevant portion of the order dated 27.4.2020 is as follows:

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

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up of rate of return on equity. Any under-recovery or over-recovery of grossed up rate on return on equity after truing up, shall be recovered or refunded to beneficiaries or the long-term transmission customers / DICs as the case may be on year to year basis.

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

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

”

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

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

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

Combined Asset-I, Asset-II & Asset-III

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Opening Equity	7077.13	7077.13	7077.13	7077.13	7077.13
Additions	0.00	0.00	0.00	0.00	0.00



Closing Equity	7077.13	7077.13	7077.13	7077.13	7077.13
Average Equity	7077.13	7077.13	7077.13	7077.13	7077.13
Return on Equity (Base Rate) (%)	15.500	15.500	15.500	15.500	15.500
MAT Rate for respective year (%)	20.961	21.342	21.342	21.342	21.549
Rate of Return on Equity (%)	19.610	19.705	19.705	19.705	19.758
Return on Equity	1387.82	1394.55	1394.55	1394.55	1398.30

65. Accordingly, RoE approved for the Combined Asset-I, Asset-II & Asset-III *vide* order dated 11.2.2016 in Petition No. 500/TT/2014, claimed in the instant Petition and trued-up RoE are as follows:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 11.2.2016 in Petition No. 500/TT/2014	1387.36	1387.36	1387.36	1387.36	1387.36
Claimed by the Petitioner in the instant petition	1388.89	1395.26	1394.55	1394.55	1398.30
Allowed after true-up in this order	1387.82	1394.55	1394.55	1394.55	1398.30

Asset-IV

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Opening Equity	868.06	868.06	892.65	892.65	892.65
Additions	0.00	24.59	0.00	0.00	0.00
Closing Equity	868.06	892.65	892.65	892.65	892.65
Average Equity	868.06	880.36	892.65	892.65	892.65
Return on Equity (Base Rate) (%)	15.500	15.500	15.500	15.500	15.500
MAT Rate for respective year (%)	20.961	21.342	21.342	21.342	21.549
Rate of Return on Equity (%)	19.610	19.705	19.705	19.705	19.758
Return on Equity	170.23	173.47	175.90	175.90	176.37

66. Accordingly, RoE approved for Asset-IV *vide* order dated 11.2.2016 in Petition No. 500/TT/2014, claimed in the instant petition and trued-up RoE are as follows:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 11.2.2016 in Petition No. 500/TT/2014	180.72	191.22	191.22	191.22	191.22



Claimed by the Petitioner in the instant petition	170.36	173.56	175.90	175.90	176.37
Allowed after true-up in this order	170.23	173.47	175.90	175.90	176.37

Operation & Maintenance Expenses (O&M Expenses)

67. Regulation 29(3) of the 2014 Tariff Regulations specifies the norms for O&M Expenses for the transmission system. The total O&M Expenses for the transmission assets claimed by the Petitioner are as follows:

Combined Asset-I, Asset-II & Asset-III

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
5 Numbers 400 kV Sub-station Bays (Wagoora, Agra and Bassi)					
3 Numbers 220 kV Sub-station Bays (Wagoora)					
217.427 km D/C (Twin/Triple Conductor) (Agra-Bassi)					
Claimed by the Petitioner in the instant petition	581.85	601.27	621.19	641.79	663.10

Asset-IV

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
2 Numbers 400 kV Sub-station Bays (Manipuri)					
Claimed by the Petitioner in the instant petition	120.60	124.60	128.74	133.02	137.42

68. The norms specified in respect of the elements covered in the transmission assets are as follows:

Element	Norms for 2014-15	Norms for 2015-16	Norms for 2016-17	Norms for 2017-18	Norms for 2018-19
D/C (Twin/Triple Conductor)	₹0.707 lakh/km	₹0.731 lakh/km	₹0.755 lakh/km	₹0.780 lakh/km	₹0.806 lakh/km
400 kV Sub-station	₹60.30 lakh/ bay	₹ 62.30 lakh/ bay	₹64.37 lakh/ bay	₹66.51 lakh/ bay	₹68.71 lakh/ bay
220 kV Sub-station	₹42.21 lakh/ bay	₹43.61 lakh/ bay	₹45.06 lakh/ bay	₹46.55 lakh/ bay	₹48.10 lakh/ bay

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



Combined Asset-I, Asset-II & Asset-III

Details	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
5 Numbers 400 kV Sub-station Bays	301.50	311.50	321.85	332.55	343.55
3 Numbers 220 kV Sub-station Bays	126.63	130.83	135.18	139.65	144.30
217.427 km D/C (Twin/Triple Conductor)	153.72	158.94	164.16	169.59	175.25
Total	581.85	601.27	621.19	641.79	663.10

70. Accordingly, O&M Expenses approved for Combined Asset-I, II & III *vide* order dated 11.2.2016 in Petition No. 500/TT/2014, claimed in the instant petition and true-up O&M Expenses is as follows:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 11.2.2016 in Petition No. 500/TT/2014	581.85	601.27	621.19	641.79	663.10
Claimed by the Petitioner in the instant petition	581.85	601.27	621.19	641.79	663.10
Allowed after true-up in this order	581.85	601.27	621.19	641.79	663.10

Asset-IV

Details	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
2 Numbers 400 kV Sub-station Bays	120.60	124.60	128.74	133.02	137.42
Total	120.60	124.60	128.74	133.02	137.42

71. Accordingly, O&M Expenses approved for Asset-IV *vide* order dated 11.2.2016 in Petition No. 500/TT/2014, claimed in the instant petition and true-up O&M Expenses is as follows:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 11.2.2016 in Petition No. 500/TT/2014	120.60	124.60	128.74	133.02	137.42
Claimed by the Petitioner in the instant petition	120.60	124.60	128.74	133.02	137.42
Allowed after true-up in this order	120.60	124.60	128.74	133.02	137.42



Interest on Working Capital (IWC)

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

Combined Asset-I, Asset-II & Asset-III

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Interest on Working Capital					
O&M Expenses (O&M Expenses for 1 month)	48.49	50.11	51.77	53.48	55.26
Maintenance Spares (15% of O&M Expenses)	87.28	90.19	93.18	96.27	99.46
Receivables (Equivalent to 2 months of annual fixed cost)	681.53	669.44	656.38	643.67	632.34
Total Working Capital	817.29	809.73	801.33	793.42	787.06
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
Interest of Working Capital	110.33	109.31	108.18	107.11	106.25

73. Accordingly, IWC approved for Combined Asset-I, Asset-II & Asset-III *vide* order dated 11.2.2016 in Petition No. 500/TT/2014, claimed in the instant petition and true-up IWC is as follows:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 11.2.2016 in Petition No. 500/TT/2014	108.26	107.08	105.93	104.83	103.81
Claimed by the Petitioner in the instant petition	110.83	109.80	108.66	107.60	106.76
Allowed after true-up in this order	110.33	109.31	108.18	107.11	106.25

Asset-IV

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Interest on Working Capital					
O&M Expenses (O&M Expenses for 1 month)	10.05	10.38	10.73	11.09	11.45
Maintenance Spares (15% of O&M Expenses)	18.09	18.69	19.31	19.95	20.61
Receivables (Equivalent to 2 months of annual fixed cost)	98.74	98.59	98.31	96.89	95.63
Total Working Capital	126.88	127.66	128.35	127.93	127.70



Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
Interest of Working Capital	17.13	17.23	17.33	17.27	17.24

74. Accordingly, IWC approved for Asset-IV *vide* order dated 11.2.2016 in Petition No. 500/TT/2014, claimed in the instant petition and trued-up IWC is as follows:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 11.2.2016 in Petition No. 500/TT/2014	17.83	18.44	18.35	18.27	18.21
Claimed by the Petitioner in the instant petition	17.13	17.24	17.33	17.27	17.24
Allowed after true-up in this order	17.13	17.23	17.33	17.27	17.24

Approved Annual Fixed Charges for the 2014-19 Tariff Period

75. The trued-up AFC allowed for the transmission assets for the 2014-19 tariff period are as follows:

Combined Asset-I, Asset-II & Asset-III

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	1246.95	1246.95	1246.95	1246.95	1246.95
Interest on Loan	762.21	664.53	567.44	471.62	379.43
Return on Equity	1387.82	1394.55	1394.55	1394.55	1398.30
Interest on Working Capital	110.33	109.31	108.18	107.11	106.25
O & M Expenses	581.85	601.27	621.19	641.79	663.10
Total	4089.18	4016.61	3938.31	3862.02	3794.03

76. Accordingly, the Annual Transmission Charges for Combined Asset-I, II & III approved *vide* order dated 11.2.2016 in Petition No. 500/TT/2014, claimed by the Petitioner and approved after truing up in the instant order is as follows:

Particulars	(₹ in lakh)				
	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 11.2.2016 in Petition No. 500/TT/2014	3997.18	3917.22	3838.12	3760.44	3685.48
Claimed by the Petitioner in the instant petition	4111.25	4038.43	3959.59	3883.62	3816.34
Allowed after true-up in this order	4089.18	4016.61	3938.31	3862.02	3794.03



Asset-IV

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	152.78	154.94	157.11	157.11	157.11
Interest on Loan	131.69	121.29	110.77	98.05	85.67
Return on Equity	170.23	173.47	175.90	175.90	176.37
Interest on Working Capital	17.13	17.23	17.33	17.27	17.24
O & M Expenses	120.60	124.60	128.74	133.02	137.42
Total	592.42	591.54	589.84	581.34	573.80

77. Accordingly, the Annual Transmission Charges for Asset-IV approved *vide* order dated 11.2.2016 in Petition No. 500/TT/2014, claimed by the Petitioner and approved after truing up in the instant order is as follows:

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Approved <i>vide</i> order dated 11.2.2016 in Petition No. 500/TT/2014	623.64	645.34	635.38	625.83	616.95
Claimed by the Petitioner in the instant petition	592.56	591.63	589.85	581.35	573.81
Allowed after true-up in this order	592.42	591.54	589.84	581.34	573.80

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

78. The Petitioner has combined all the transmission assets into a single asset and has claimed the following transmission charges for the 2019-24 tariff period in respect of Combined Asset comprising of Combined Asset -I, II and III and Asset-IV:

(₹ in lakh)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	1416.60	1429.14	320.94	320.94	320.95
Interest on Loan	392.21	280.27	202.13	171.56	136.14
Return on Equity	1588.74	1602.82	1602.82	1602.82	1602.82
Interest on Working Capital	77.23	77.03	60.08	60.61	60.96
O&M Expenses	599.66	620.78	642.48	665.06	687.94
Total	4074.44	4010.04	2828.45	2820.99	2808.81



79. The Petitioner has claimed the following IWC for the 2019-24 period in respect of Combined Asset comprising of Combined Asset-I, II and III and Asset-IV are as follows:

(₹ in lakh)					
Particular	2019-20	2020-21	2021-22	2022-23	2023-24
O&M Expenses	49.97	51.73	53.54	55.42	57.33
Maintenance Spares	89.95	93.12	96.37	99.76	103.19
Receivables	500.96	494.39	348.71	347.79	345.34
Total Working Capital	640.88	639.24	498.62	502.97	505.86
Rate of Interest (%)	12.05	12.05	12.05	12.05	12.05
Interest on Working Capital	77.23	77.03	60.08	60.61	60.96

Effective Date of Commercial Operation (E-COD)

80. The Petitioner has stated that E-COD of the Combined Asset works out to be 5.8.2008. The E-COD has been worked out based on the trued-up capital cost and COD of the individual asset. The E-COD has been worked out is as follows:

Asset	Capital Cost as on 31.3.2019 (₹ in lakh)	Actual COD	Numbr of days from last COD	Weightage of cost (%)	Weighted days	Effective COD (latest COD - total weighted days)
Combined Asset-I, Asset-II & Asset-III	23589.11	1.4.2008	1125	88.80	998.99	5.8.2008
Asset-IV	2975.50	1.5.2011	0	11.20	0.00	
Total	26564.61			100.00	998.99	

81. The E-COD is used to determine the lapsed life of the project as a whole which works out as 10 (ten) years as on 1.4.2019 (i.e. the number of completed years as on 1.4.2019 from E-COD).

Weighted Average Life (WAL) of the Project

82. The life as defined in Regulation 33 of the 2019 Tariff Regulations has been considered for determination of WAL.

83. Combined Asset may have multiple elements such as land, building, transmission line, sub-station and PLCC and each element may have different span of



life. Therefore, the concept of WAL has been used as the useful life of the project as a whole.

84. WAL has been determined based on the admitted capital cost of individual elements as on 31.3.2019 and their respective life as specified in the 2019 Tariff Regulations. Accordingly, WAL of the transmission assets put into commercial operation during 2004-09 and 2009-14 periods has been worked out as 32 years as follows:

Particulars	Life (in years) (1)	Capital Cost as on 31.3.2019 (₹ in lakh) (2)	Weighted Cost (₹ in lakh) (3) = (1) x (2)	Weighted Average Life of Asset (in years) (4) = (3) / (2)
Transmission Line	35	17865.48	625291.80	31.6733 years (rounded off to 32 years)
Sub-Station	25	8561.13	214028.25	
PLCC	15	138.00	2070.00	
Total		26564.61	841390.05	

85. WAL as on 1.4.2019 as determined above is applicable prospectively (i.e. for 2019-24 tariff period onwards) and no retrospective adjustment of depreciation in previous tariff period is required to be done. As discussed above, the E-COD of the assets is 5.8.2008 and the lapsed life of the project as a whole works out as 10 years as on 1.4.2019 (i.e. the number of completed years as on 1.4.2019 from Effective COD). Accordingly, WAL has been used to determine the remaining useful life as on 31.3.2019 to be 22 years.

Capital Cost as on 1.4.2019

86. Regulation 19 of the 2019 Tariff Regulations provide 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 ash disposal and utilization including handling and transportation facility;

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

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

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



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

- (a) cost of approved rehabilitation and resettlement (R&R) plan of the project in conformity with National R&R Policy and R&R package as approved; and
- (b) cost of the developer's 10% contribution towards Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY) and Deendayal Upadhyaya Gram Jyoti Yojana (DDUGJY) project in the affected area.

(5) The following shall be excluded from the capital cost of the existing and new projects:

- (a) The assets forming part of the project, but not in use, as declared in the tariff petition;
- (b) De-capitalised Assets after the date of commercial operation on account of replacement or removal on account of obsolescence or shifting from one project to another project:

Provided that in case replacement of transmission asset is recommended by Regional Power Committee, such asset shall be decapitalised only after its redeployment;

Provided further that unless shifting of an asset from one project to another is of permanent nature, there shall be no de-capitalization of the concerned assets.

- (c) In case of hydro generating stations, any expenditure incurred or committed to be incurred by a project developer for getting the project site allotted by the State Government by following a transparent process;
- (d) Proportionate cost of land of the existing project which is being used for generating power from generating station based on renewable energy; and
- (e) Any grant received from the Central or State Government or any statutory body or authority for the execution of the project which does not carry any liability of repayment.”

87. The Petitioner has claimed capital cost of ₹25654.61 lakh as on 31.3.2019 for the Combined Asset, which is the same as worked out by the Commission. Accordingly, the capital cost of ₹25654.61 lakh has been considered as on 1.4.2019 for determination of tariff in accordance with Regulation 19 of the 2019 Tariff Regulations.

Additional Capital Expenditure (ACE)

88. Regulation 24 of the 2019 Tariff Regulations provides 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.

25. Additional Capitalisation within the original scope and after the cut-off date:

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

- (a) 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;
- (b) Change in law or compliance of any existing law;
- (c) Deferred works relating to ash pond or ash handling system in the original scope of work;
- (d) Liability for works executed prior to the cut-off date;
- (e) Force Majeure events;
- (f) Liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments; and Raising of ash dyke as a part of ash disposal system.

(2) In case of replacement of assets deployed under the original scope of the existing project after cut-off date, the additional capitalization may be admitted by the Commission, after making necessary adjustments in the gross fixed assets and the cumulative depreciation, subject to prudence check on the following grounds:

- (a) The useful life of the assets is not commensurate with the useful life of the project and such assets have been fully depreciated in accordance with the provisions of these regulations;
- (b) The replacement of the asset or equipment is necessary on account of change in law or Force Majeure conditions;
- (c) The replacement of such asset or equipment is necessary on account of obsolescence of technology; and
- (d) The replacement of such asset or equipment has otherwise been allowed by the Commission.”

89. The Petitioner has claimed ACE of ₹474.80 lakh during 2019-24 for the Combined Asset under Regulation 25(1)(d) of the 2019 Tariff Regulations. The



Petitioner submitted that ACE incurred in the contextual assets is on account of any undischarged liability towards final payment/ withheld payment due to contractual exigencies for works executed within the cut-off date. The Petitioner has claimed capital cost as on 31.3.2024 as follows:

Total Capital Cost as on 1.4.2019	Projected ACE	Total Capital Cost as on 31.3.2024
	2019-20	
25654.61	474.87	27039.48

90. In response to the Technical Validation letter, the Petitioner has submitted that ACE claimed during 2019-20 is on account of balance and retention payment for works executed within the cut-off date and is covered under Regulation 25(1)(d) of the 2019 Tariff Regulations. The payment was withheld due to contractual exigencies as there was a technical issue which was to be addressed by BHEL before the release of payment.

91. We have considered the submission made by the Petitioner. ACE claimed by the Petitioner has been allowed under Regulation 25(1)(d) of the 2019 Tariff Regulations. Accordingly, the capital cost considered for the 2019-24 tariff period is as follows:

Total Capital Cost as on 1.4.2019	Projected ACE	Total Capital Cost as on 31.3.2024
	2019-20	
25654.61	474.87	27039.48

Debt-Equity Ratio

92. 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.”

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



Particulars	Capital Cost as on 1.4.2019 (₹ in lakh)	%	ACE during 2019-24 (₹ in lakh)	%	Capital Cost as on 31.3.2024 (₹ in lakh)	%
Debt	18594.83	70.00	332.41	70.00	18927.24	70.00
Equity	7969.78	30.00	142.46	30.00	8112.24	30.00
Total	26564.61	100.00	474.87	100.00	27039.48	100.00

Depreciation

94. Regulation 33(1), 33(2) and 33(5) of the 2019 Tariff Regulations provide 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 there of including communication system. In case of the tariff of all the units of a generating station or all elements of a transmission system including communication system for which a single tariff needs to be determined, the depreciation shall be computed from the effective date of commercial operation of the generating station or the transmission system taking into consideration the depreciation of individual units:

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

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

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

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

95. UPPCL submitted that the capital cost is ₹26564.61 lakh for 2019-20 and ACE during 2019-20 is ₹474.87 lakh, therefore closing capital cost of 2021-22 is ₹27039.48 lakh and on that basis the Petitioner has worked out depreciation. The cumulative depreciation in the beginning of the period for 2019-20 is ₹138521.66 lakh as against which the Petitioner has taken a wrong figure of ₹15070.93 lakh. UPPCL requested



the Commission to direct the Petitioner to revise the figures of depreciation. In response, Petitioner vide affidavit dated 23.12.2020 submitted that depreciation computed is as per the 2019 Tariff Regulations.

96. We have considered the submissions of UPPCL and the Petitioner. The depreciation has been worked out considering the admitted capital expenditure as on 31.3.2019 and accumulated depreciation up to 31.3.2019. WAROD has been worked (Annexure-2) as per the rates of depreciation prescribed in the 2019 Tariff Regulations. The Combined Asset has completed 12 years of life as on 31.3.2021, the remaining depreciable value of ₹6418.94 lakh as on 31.3.2021 has been spread across the balance useful life of 20 years in accordance with Regulation 33(5) of the 2019 Tariff Regulations. The annual depreciation from the year 2021-22 and onwards is ₹320.95 lakh. The depreciation allowed for the Combined Asset for the 2019-24 period is as follows:

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Gross Block	26564.61	27039.48	27039.48	27039.48	27039.48
Addition during the year 2019-24 due to projected Additional Capitalisation	474.87	0.00	0.00	0.00	0.00
Closing Gross Block	27039.48	27039.48	27039.48	27039.48	27039.48
Average Gross Block	26802.05	27039.48	27039.48	27039.48	27039.48
WAROD (%)	5.29	5.29	1.18	1.18	1.18
Balance useful life at the beginning of the year (Year)	22.00	21.00	20.00	19.00	18.00
Lapsed life of the asset (Year)	10.00	11.00	12.00	13.00	14.00
Depreciable Value	24121.84	24335.53	24335.53	24335.53	24335.53
Depreciation during the year	1416.60	1429.13	320.95	320.95	320.95
Cumulative Depreciation	16487.46	17916.59	18237.54	18558.49	18879.43
Remaining Depreciable Value	7634.38	6418.94	6097.99	5777.05	5456.10

Interest on Loan (IoL)

97. 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;

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.”

98. UPPCL submitted that the capital cost is ₹26564.61 lakh for 2019-20. The debt-equity ratio 70:30. Therefore, the debt is ₹18595.22 lakh. The cumulative depreciation is ₹138521.66 lakh instead of which the Petitioner has taken a wrong value of ₹13711.92 lakh. UPPCL has requested to direct the Petitioner to rectify the entire figures of IoL based on the revised figures of cumulative depreciation. In response, the Petitioner vide affidavit dated 23.12.2020 submitted that depreciation computed is as per the 2019 Tariff Regulations.



99. We have considered the submissions of UPPCL and the Petitioner. The weighted average rate of IoL 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 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 allowed for the 2019-24 tariff period is as follows:

(₹ in lakh)					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Gross Normative Loan	18594.83	18927.24	18927.24	18927.24	18927.24
Cumulative Repayments up to Previous Year	13964.08	15380.67	16809.81	17130.75	17451.70
Net Loan-Opening	4630.76	3546.57	2117.43	1796.49	1475.54
Additions	332.41	0.00	0.00	0.00	0.00
Repayment during the year	1416.60	1429.13	320.95	320.95	320.95
Net Loan-Closing	3546.57	2117.43	1796.49	1475.54	1154.59
Average Loan	4088.66	2832.00	1956.96	1636.01	1315.07
Weighted Average Rate of Interest on Loan (%)	9.0354	9.0875	9.1496	9.0860	8.6863
Interest on Loan	369.43	257.36	179.05	148.65	114.23

Return on Equity (RoE)

100. 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 excluding additional capitalization due to Change in Law, shall be computed at the weighted average rate of interest on actual loan portfolio of the generating station or the transmission system;



Provided further that:

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

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

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

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

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

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

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

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

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

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



Illustration-

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

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

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

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

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

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

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

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

101. 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 Respondent-beneficiaries.

102. In response, the Petitioner vide affidavit dated 25.3.2021 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.

103. 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 vide affidavit dated 25.3.2021 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.

104. UPPCL has submitted that the capital cost is ₹316301.64 lakh and the debt-equity ratio is 70:30. Therefore, the equity for 2019-20 is ₹9489.19 lakh. The discrepancy in RoE is that the grossed up rate of interest on equity is on presumptive value of MAT rates. Therefore, the values of RoE for the entire 2019-24 tariff period has to be revised. UPPCL has requested to direct the Petitioner to rectify the figures of RoE on the basis of MAT rates approved by the I.T. Authorities.

105. In response, the Petitioner has submitted that in the absence of IT assessment order pertaining to 2019-24 period, the ROE should be calculated @ 18.782% after grossing up the ROE with MAT rate of 17.472% (Base Rate 15% + Surcharge 12% + Cess 4%) based on the rate prescribed by the Commission as per illustration under Regulation 31(2)(ii) of the 2019 Tariff Regulations during the 2019-24 period. As per



Regulation 31(3) of 2019 Tariff Regulations, the grossed up rate of RoE at the end of every financial year shall be trued up based on actual tax paid together with any additional tax demand including interest thereon duly adjusted for any refund of tax including interest received from the IT Authorities pertaining to the tariff period 2019-24 on actual gross income of any financial year.

106. We have considered the submissions of the Petitioner and UPPCL and BRPL. BRPL has contended that the true up of the grossed-up rate of RoE at the end of every financial year based on actual tax paid under Regulation 31(3) of the 2019 Tariff Regulations should be done in consultation with the Respondents. BRPL has raised this issue not only in this petition but in many other petitions. We observe that Regulation 31(3) of the 2019 Tariff Regulations do not provide for any such consultation with the Respondents.

107. The Petitioner has submitted that MAT rate is applicable to the Petitioner's company. Accordingly, the MAT rate applicable in 2019-20 has been considered for the purpose of RoE, which shall be trued-up with actual tax rate in accordance with Regulation 31(3) of the 2019 Tariff Regulations. The RoE allowed for the Combined Asset for the 2019-24 tariff period is as follows:

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Equity	7969.78	8112.24	8112.24	8112.24	8112.24
Additions	142.46	0.00	0.00	0.00	0.00
Closing Equity	8112.24	8112.24	8112.24	8112.24	8112.24
Average Equity	8041.01	8112.24	8112.24	8112.24	8112.24
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	1510.26	1523.64	1523.64	1523.64	1523.64



Operation & Maintenance Expenses (O&M Expenses)

108. The total O&M Expenses claimed by the Petitioner for the transmission assets for the 2019-24 tariff period are as follows:

	(₹ in lakh)				
Details	2019-20	2020-21	2021-22	2022-23	2023-24
7 Numbers 400 kV Sub-station Bays	225.05	232.96	241.15	249.62	258.37
3 Numbers 220 kV Sub-station Bays	67.53	69.90	72.36	74.88	77.52
1 Number 400 kV Sub-station ICT (315 MVA)	112.77	116.87	120.96	125.37	129.47
217.427 km D/C (Twin/Triple Conductor)	191.55	198.29	205.25	212.43	219.82
PLCC (2% of ₹138.00 lakh)	2.76	2.76	2.76	2.76	2.76
Total	599.66	620.78	642.48	665.06	687.94

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

*“35 Operation and Maintenance Expenses
(3) Transmission system: (a) The following normative operation and maintenance expenses shall be admissible for the transmission system:*

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



Double Circuit (Twin & Triple Conductor)	0.881	0.912	0.944	0.977	1.011
Double Circuit (Single Conductor)	0.377	0.391	0.404	0.419	0.433
Multi Circuit (Bundled Conductor with four or more sub-conductor)	2.319	2.401	2.485	2.572	2.662
Multi Circuit (Twin & Triple Conductor)	1.544	1.598	1.654	1.713	1.773
Norms for HVDC stations					
HVDC Back-to-Back stations (Rs Lakh per 500 MW) (Except Gazuwaka BTB)	834	864	894	925	958
Gazuwaka HVDC Back-to-Back station (₹ Lakh per 500 MW)	1,666	1,725	1,785	1,848	1,913
500 kV Rihand-Dadri HVDC bipole scheme (Rs Lakh) (1500 MW)	2,252	2,331	2,413	2,498	2,586
±500 kV Talcher- Kolar HVDC bipole scheme (Rs Lakh) (2000 MW)	2,468	2,555	2,645	2,738	2,834
±500 kV Bhiwadi-Balia HVDC bipole scheme (Rs Lakh) (2500 MW)	1,696	1,756	1,817	1,881	1,947
±800 kV, Bishwanath-Agra HVDC bipole scheme (Rs Lakh) (3000 MW)	2,563	2,653	2,746	2,842	2,942

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

Provided further that:

- i. the operation and maintenance expenses for new HVDC bi-pole schemes commissioned after 1.4.2019 for a particular year shall be allowed pro-rata on the basis of normative rate of operation and maintenance expenses of similar HVDC bi-pole scheme for the corresponding year of the tariff period;
- ii. the O&M expenses norms for HVDC bi-pole line shall be considered as Double Circuit quad AC line;
- iii. the O&M expenses of ±500 kV Mundra-Mohindergarh HVDC bipole scheme (2000 MW) shall be allowed as worked out by multiplying 0.80 of the normative O&M expenses for ±500 kV Talchar-Kolar HVDC bi-pole scheme (2000 MW);
- iv. the O&M expenses of ±800 kV Champa-Kurukshetra HVDC bi-pole scheme



(3000 MW) shall be on the basis of the normative O&M expenses for ±800 kV, Bishwanath-Agra HVDC bi-pole scheme;

v. the O&M expenses of ±800 kV, Alipurduar-Agra HVDC bi-pole scheme (3000 MW) shall be allowed as worked out by multiplying 0.80 of the normative O&M expenses for ±800 kV, Bishwanath-Agra HVDC bi-pole scheme; and

vi. the O&M expenses of Static Synchronous Compensator and Static Var Compensator shall be worked at 1.5% of original project cost as on commercial operation which shall be escalated at the rate of 3.51% to work out the O&M expenses during the tariff period. The O&M expenses of Static Synchronous Compensator and Static Var Compensator, if required, may be reviewed after three year

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

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

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

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

110. We have considered the submission of the Petitioner. The Petitioner has claimed O&M Expenses separately for PLCC under Regulation 35(4) of the 2019 Tariff Regulations @2% of its original project cost in the instant petition. The Petitioner has made similar claim in other petitions as well. Though PLCC is a communication system, it has been considered as part of the sub-station in the 2014 Tariff Regulations and the 2019 Tariff Regulations and the norms for sub-station have been specified accordingly. Accordingly, the Commission vide order dated 24.1.2021 in Petition No. 126/TT/2020 has already concluded that no separate O&M Expenses can be allowed for PLCC under Regulation 35(4) of the 2019 Tariff Regulations even though PLCC is a communication system. Therefore, the Petitioner's claim for



separate O&M Expenses for PLCC @2% is not allowed. The relevant portions of the order dated 24.1.2021 in Petition No. 126/TT/2020 are extracted hereunder:

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

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

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

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

111. The O&M Expenses allowed for the transmission assets is as follows:

	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
O&M Expenses					
7 Numbers of 400 kV Sub-station bays					
Norms (₹ lakh/Bay)	32.15	33.28	34.45	35.66	36.91
Total	225.05	232.96	241.15	249.62	258.37
3 Numbers of 220 kV Sub-station bays					
Norms (₹ lakh/Bay)	22.51	23.30	24.12	24.96	25.84



Total	67.53	69.90	72.36	74.88	77.52
217.427 km D/C (Twin/Triple Conductor)					
Norms (₹ lakh/km)	0.881	0.912	0.944	0.977	1.011
Total	191.55	198.29	205.25	212.43	219.82
1 Number of 400 kV Sub-station ICT					
Norms (₹ lakh/MVA)	0.358	0.371	0.384	0.398	0.411
Total	112.77	116.87	120.96	125.37	129.47
Total O&M expenses allowed (₹ in lakh)	596.90	618.02	639.72	662.30	685.17

Interest on Working Capital (IWC)

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

“34. Interest on Working Capital

(1)...

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

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

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

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

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

“3.Definitions ...

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



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

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
O&M Expenses (O&M Expenses for 1 month)	49.74	51.50	53.31	55.19	57.10
Maintenance Spares (15% of O&M Expenses)	89.54	92.70	95.96	99.34	102.78
Receivables (Equivalent to 45 days of annual transmission charges)	487.96	480.63	335.08	334.17	331.88
Total Working Capital	627.24	624.83	484.35	488.71	491.76
Rate of Interest (%)	12.05	11.25	11.25	11.25	11.25
Interest on Working Capital	75.58	70.29	54.49	54.98	55.32

Annual Fixed Charges for the 2019-24 Tariff Period

114. The transmission charges allowed for the Combined Asset for the 2019-24 tariff period are as follows:

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	1416.60	1429.13	320.95	320.95	320.95
Interest on Loan	369.43	257.36	179.05	148.65	114.23
Return on Equity	1510.26	1523.64	1523.64	1523.64	1523.64
Interest on Working Capital	75.58	70.29	54.49	54.98	55.32
O & M Expenses	596.90	618.02	639.72	662.30	685.17
Total	3968.77	3898.44	2717.85	2710.51	2699.31



Filing Fee and the Publication Expenses

115. 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. BRPL also referred to the Commission's order dated 11.9.2008 in Petition No. 129 of 2005 where it declined the claim of Central Power Sector undertakings for allowing the reimbursement of the application filing fee. In response, the Petitioner vide affidavit dated 25.3.2021 has submitted that it has requested for reimbursement of expenditure by the beneficiaries towards petition filing fee and publication expense, in terms of Regulation 70(1) of the 2019 Tariff Regulations. Further, the Petitioner also placed reliance on the Commission's order dated 28.3.2016 in Petition No. 137/TT/2015 where it allowed the recovery of petition filing fee and expenditure for publication of notices from beneficiaries on pro-rata basis.

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

Licence Fee & RLDC Fees and Charges

117. UPPCL has submitted that the license fee is the onus of the Petitioner. In response, the Petitioner submitted that Regulation 70 of 2019 Tariff Regulation authorizes to recover Licensee fee separately from the respondents. The fees and charges to be paid by the Petitioner as ISTS licensee (deemed ISTS licensee) under Central Electricity Regulatory Commission (Fees and Charges of RLDC and other



matters) Regulations as amended from time to time shall also be recoverable from the DICs as provided under clause 70(3) of 2019 Tariff Regulations.

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

Goods and Services Tax

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

120. BRPL has submitted that the demand of the Petitioner is premature and need not be considered at this juncture. In response, the Petitioner vide affidavit dated 25.3.2021 submitted that currently transmission of electricity by an electric transmission utility is exempt from GST. Hence, the transmission charges currently charged are exclusive of GST. Further, if GST is levied at any rate and at any point of time in future, the same shall be borne and additionally paid by the Respondent(s) to the Petitioner and the same shall be charged and billed separately.

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



Security Expenses

122. 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.

123. 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 separately in a separate petition along with other assets.

124. We have considered the submissions of the Petitioner and the Respondent, BRPL. We are of the view that the Petitioner should claim security expenses for all the transmission assets in one petition. It is observed that the Petitioner has already filed the Petition No. 260/MP/2020 claiming consolidated security expenses on projected basis for the 2019-24 tariff period on the basis of actual security expenses incurred in 2018-19. Therefore, security expenses will be dealt with in Petition No. 260/MP/2020 in accordance with the applicable provisions of the 2019 Tariff Regulations.



Capital Spares

125. The Petitioner has sought reimbursement of capital spares at the end of tariff period. UPPCL has submitted that the claim of capital spares at the end of the tariff period is permissible only to the extent of the provision of the concerned tariff regulation which is the ceiling value. Therefore, if the value actual capital spares is more than what is provided in the regulation may not be allowed. In response, the Petitioner has submitted that the capital spares shall be claimed at the end of tariff block as per actual. Accordingly, the Petitioner has not claimed capital spares the instant petition and has informed that the same shall be claimed in a separate petition along with all other assets in accordance with the 2019 Tariff Regulations.

126. We have considered the submissions of the Petitioner and UPPCL. The Petitioner's claim, if any, shall be dealt with in accordance with the provisions of the 2019 Tariff Regulations.

Sharing of Transmission Charges

127. The billing, collection and disbursement of the transmission charges approved shall be governed by the provisions of Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 or 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.

128. To summarise:

- (a) The revised AFC allowed for the transmission assets as per the APTEL's judgements from their respective COD to 31.3.2009 are:



(₹ in lakh)

Asset	2006-07	2007-08	2008-09
Asset-I	713.27	2875.78	2922.68
Asset-II		207.22	279.21
Asset-III			144.41

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

(₹ in lakh)

Particulars	2009-10	2010-11	2012-13	2013-14	2014-15
Annual Fixed Charges	4399.42	4399.31	4345.00	4282.03	4234.65

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

Combined Asset-I, Asset-II & Asset-III

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Annual Fixed Charges	4089.18	4016.61	3938.31	3862.02	3794.03

Asset-IV

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Annual Fixed Charges	592.42	591.54	589.84	581.34	573.80

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

(₹ in lakh)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
AFC	3968.77	3898.44	2717.85	2710.51	2699.31

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



130. This order disposes of Petition No. 8/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**



Combined Asset- I, II & III

2014-19 Capital Expenditure	Admitted Capital Cost as on COD (₹ in lakh)	Allowed	Admitted Capital Cost as on 31.3.2019 (₹ in lakh)	Rate of Depreciation as per Regulations	Annual Depreciation as per Regulations (₹ in lakh)				
					2014-15	2015-16	2016-17	2017-18	2018-19
Transmission Line	17865.48	17865.48	17865.48	5.28%	943.30	943.30	943.30	943.30	943.30
Sub Station	5585.63	5585.63	5585.63	5.28%	294.92	294.92	294.92	294.92	294.92
PLCC	138.00	138.00	138.00	6.33%	8.74	8.74	8.74	8.74	8.74
Total	23589.11	23589.11	23589.11	Total	1246.95	1246.95	1246.95	1246.95	1246.95
Average Gross Block (₹ in lakh)					23589.11	23589.11	23589.11	23589.11	23589.11
Weighted Average Rate of Depreciation					5.29%	5.29%	5.29%	5.29%	5.29%

Asset-IV

2014-19 Capital Expenditure	Admitted Capital Cost as on 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)				
		2015-16	Allowed			2014-15	2015-16	2016-17	2017-18	2018-19
Sub Station	2893.53	81.97	2975.50	2975.50	5.28%	152.78	154.94	157.11	157.11	157.11
Total	2893.53	81.97	2975.50	2975.50	Total	152.78	154.94	157.11	157.11	157.11
Average Gross Block (₹ in lakh)					2893.53	2934.52	2975.50	2975.50	2975.50	
Weighted Average Rate of Depreciation					5.28%	5.28%	5.28%	5.28%	5.28%	



ANNEXURE-2

2019-24 Capital Expenditure	Combined 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			2019-20	2020-21
Transmission Line	17865.48	0.00	17865.48	5.28%	943.30	943.30
Sub Station	8561.13	474.87	9036.00	5.28%	464.56	477.10
PLCC	138.00	0.00	138.00	6.33%	8.74	8.74
Total	26564.61	474.87	27039.48	Total	1416.60	1429.13
			Average Gross Block (₹ in lakh)		26802.05	27039.48
			Weighted Average Rate of Depreciation		5.29%	5.29%

*Since the asset has completed 12 years of life as on 31.3.2021, the remaining depreciable value of ₹6418.94 lakh as on 31.3.2021 has been spread across the balance useful life of 20 years in accordance with Regulation 33(5) of the 2019 Tariff Regulations. The annual depreciation from 2021-22 onwards is ₹320.95 lakh.

