

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 81/TT/2016**

**Coram:**

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

**Date of Order: 13.06.2021**

**In the matter of**

Approval under Sections 61, 62 and 79(1)(c) and 79(1)(d) of the Electricity Act, 2003 and the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for approval of Annual Fixed Cost and determination of tariff for the licensed transmission business for the financial years 2015-16, 2016-17, 2017-18 and 2018-19 for 400 kV Srinagar-Srinagar PH line as per the Commission's order dated 31.1.2013 in Petition No. 133/MP/2012.

**And in the matter of**

Power Transmission Corporation of Uttarakhand Ltd.,  
Vidyut Bhawan, Near ISBT Crossing,  
Saharanpur Road, Majra,  
Dehradun-248002, Uttarakhand.

**....Petitioner**

**Vs**

1. Power Grid Corporation of India Ltd.,  
"SAUDAMINI", Plot No-2, Sector-29,  
Gurgaon-122001 (Haryana).
2. North Delhi Power Ltd.,  
Power Trading & Load Dispatch Group,  
Cennet Building, Adjacent to 66/11 kV Pitampura-3,  
Grid Building, Near PP Jewellers,  
Pitampura, New Delhi-110034.
3. Punjab State Electricity Board,  
The Mall,  
Patiala-147001.



4. BSES Yamuna Power Ltd.,  
BSES Bhawan, Nehru Place,  
New Delhi-110019.
5. BSES Rajdhani Power Ltd.,  
BSES Bhawan, Nehru Place,  
New Delhi-110019.
6. New Delhi Municipal Council,  
Palika Kendra, Sansad Marg,  
New Delhi-110002.
7. Jodhpur Vidyut Vitran Nigam Ltd.,  
400 kV GSS Building (Ground Floor),  
Ajmer Road, Heerapura, Jaipur-302024.
8. Jaipur Vidyut Vitran Nigam Ltd.,  
400 kV GSS Building (Ground Floor),  
Ajmer Road, Heerapura, Jaipur-302024.
9. North Central Railway,  
Allahabad-211011.
10. Chandigarh Administration,  
Sector-9, Chandigarh-160009.
11. Ajmer Vidyut Vitran Nigam Ltd.,  
400 kV GSS Building (Ground Floor),  
Ajmer Road, Heerapura, Jaipur-302024.
12. Uttar Pradesh Power Corporation Ltd.,  
10<sup>th</sup> Floor Shakti Bhawan Extn. 14,  
Ashok Marg, Lucknow-226001.
13. Himachal Pradesh State Electricity Board Ltd.,  
Vidyut Bhawan, Kumar House Complex Building II,  
Shimla-171004 (H.P.)
14. Haryana Power Purchase Centre,  
Shakti Bhawan, Sector-6,  
Panchkula (Haryana) 134109.
15. Power Development Department,  
Government of Jammu and Kashmir,  
Mini Secretariat, Jammu (Tawi) 180007.
16. Uttarakhand Power Corporation Ltd.,  
Victoria Cross Vijeyta Gabar Singh Urja Bhawan,  
Kanwali Road, Balliwala Chowk, Dehradun-248001, Uttarakhand.



17. GVK Industries, Alaknanda Hydro Power Co. Ltd.,  
Paigah House, 156-159 Sardar Patel Road,  
Secundrabad-500003, Telangana.
18. NTPC Ltd.,  
NTPC Bhawan, SCOPE Complex,  
7, Institutional Area,  
Lodhi Road, New Delhi-110003.
19. THDC India Ltd.,  
Pragatipuram, Bypass Road, Rishikesh-249201,  
Uttarakhand
20. Lanco Mandakini Hydro Energy Pvt. Ltd.,  
14-H, Pushpanjali Enclave, General Mahadev Singh Road,  
Dehradun-248001, Uttarakhand
21. L&T Uttaranchal Hydro Power Ltd.,  
Landmark A, Ground Floor, Suren Road,  
Chakala, Andheri (E), Mumbai-400093.
22. GMR (Badrinath) Hydro Power Generation Pvt. Ltd.,  
New Sakthi Bhawan, Building No. 302, Near Terminal-3,  
IGI Airport, New Delhi-110037.
23. NHPC Ltd.,  
NHPC Office Complex, Sector-33, Faridabad-121003,  
Haryana.
24. SJVN Ltd.,  
SJVN Corporate Office Complex,  
Shanan, Shimla-171006,  
Himachal Pradesh
25. UJVN Ltd.,  
Maharani Bagh, G.M.S. Road,  
Dehradun-248006.

....Respondents

**For Petitioner:** Shri Aryaman Saxena, Advocate, PTCUL  
Shri Vikas Sharma, PTCUL  
Shri S.P. Arya, PTCUL

**For Respondent:** Shri Pradeep Misra, Advocate, UPCL  
Shri B.C.K. Mishra, UPCL



## ORDER

The instant petition is filed by Power Transmission Corporation of Uttarakhand Ltd. (PTCUL) under Sections 61, 62, 79(1)(c) and 79(1)(d) of the Electricity Act, 2003 (hereinafter referred to as “the Act”) read with the provisions of the Central Electricity Regulatory Commission (Terms and conditions of Tariff) Regulations, 2014 (hereinafter referred to as “the 2014 Tariff Regulations) for approval of Annual Fixed Cost and determination of tariff of the licensed transmission business for the financial years 2015-16, 2016-17, 2017-18 and 2018-19 in respect of 400 kV Srinagar-Srinagar PH line (hereinafter referred to as “the transmission asset”) as per the Commission’s order dated 31.1.2013 in Petition No.133/ MP/2012.

2. The Petitioner has made the following prayers:

- *Approve the Annual Fixed Charges for the assets covered under this petition, as per para-18 above.*
- *Approve IDC incurred on the project, as specified in Form 5 of tariff petition enclosed herewith, due to delay caused by factors beyond the control of the petitioner.*
- *Condone any inadvertent omissions/errors/shortcomings and permit PTCUL to make further submissions as may be required at a future date to support this petition in terms of modification/clarification; and*
- *Pass other such relief as Hon’ble Commission deems fit and appropriate under the circumstances of the case and in the interest of justice.”*

### Background

3. The Petitioner has submitted that the Government of Uttarakhand (GoU) by virtue of powers conferred under Section 131(4) of the Act vide transfer scheme dated 31.5.2004 vested all interests, rights and liabilities relating to power transmission and load dispatch of Uttarakhand Power Corporation Ltd (UPCL) into itself (GoU) and subsequently re-vested them into PTCUL and declared PTCUL as

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State Transmission Utility (STU) responsible for undertaking, *inter-alia*, following functions:

- a) To undertake transmission of electricity through intra-state transmission system;
- b) To discharge all functions of planning and co-ordination relating to intra-state transmission system;
- c) To ensure development of an efficient, coordinated and economical system of intra-state transmission lines;
- d) To provide open access.

4. PTCUL was primarily created to look after the functions of intra-State transmission and load dispatch with effect from 31.5.2004. After restructured functions of UPCL and creation of a separate company for transmission works, Uttarakhand Electricity Regulatory Commission (UERC) vide order dated 9.6.2004 amended the Transmission Bulk Supply Licence granted to UPCL and vested PTCUL with carrying out transmission related works in the State.

5. GoU, Ministry of Power (MoP) in Government of India and Central Electricity Authority (CEA) had defined an investment program for development of generation, transmission and distribution of power in Uttarakhand. GoU identified hydro potential of Uttarakhand along four major river basins, namely, Alaknanda, Bhagirathi, Yamuna and Sharda. Thereafter, Uttarakhand Integrated Transmission Project (UITP) was conceived as a means to develop an optimal evacuation system for evacuating power from generating stations, Tapovan Vishnugad (520 MW), Lata Tapovan (171 MW), Pilpalkoti HEP (444 MW), Badrinath HEP (300 MW), Bawlanand Paryag (300 MW), Nand Prayag Langrasu (100 MW) and Devsari (252 MW).



6. The Petitioner has submitted that UITP was proposed to envisage power evacuation system for 5406.5 MW from the generation projects proposed to be developed on the basin of Alaknanda, Bhagirathi, Yamuna and Sharda. It was envisaged that about 15% of the power from the various generating projects that have already been approved, including Central Sector Generating Stations (CSGS) and private sector projects, would be available for Uttarakhand State (including free power) and balance about 85% power would be sold by the generators outside Uttarakhand State.

7. The Petitioner has further submitted that UITP scheme involves constructing a system comprising of 22 transmission lines of 400/220/132 kV, 8 new sub-stations and sub-station extension to evacuate power from hydro-generating plants to the pooling points in Kashipur, Pithoragarh and Dehradun. The power from Kashipur would be evacuated by PGCIL outside Uttarakhand to the beneficiaries of Northern Grid.

8. The Petitioner had filed Petition No. 133/MP/2012 under Section 79(1)(c) of the Act read with Regulations 2(1)(k), 20 and 21 of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 (hereinafter referred to as "the 2010 Sharing Regulations") for declaring the UITP being developed by the Petitioner as deemed inter-State transmission system (ISTS) and the Commission vide order dated 31.3.2013 in Petition No.133/MP/2012 declared the UITP as deemed inter-State transmission system (ISTS).

9. The Commission in its interim order dated 15.3.2017 in Petition No. 80/TT/2016 and Petition No. 81/TT/2016 observed that the transmission assets have



achieved COD but there is delay in commissioning of the generation projects resulting in non-utilization of the transmission assets. The Commission further observed that a Committee headed by Chief (Engineering) of the Commission with members from CEA, CTU, NLDC, NTPC and other generators shall be constituted to look into the issues of connectivity agreement, LTA and Implementation Agreement and work out modalities for smooth implementation and recovery of the cost of UITP within 60 days of issue of that order. Relevant portion of the order dated 15.3.2017 is extracted hereunder:

*“13. We have considered the submissions of the petitioner and PGCIL. Though, the transmission assets have been commissioned, there is delay in commissioning of the generation projects resulting in non-utilisation of the transmission assets. The representative of the petitioner has also submitted that several meetings were held with generators and CTU to match the commissioning of the transmission system with the generation but no agreement has been reached. The Commission is of the view that if no agreement could be reached with the generators for whom the transmission lines were being executed, the petitioner should have approached the Commission for further directions on whether in the changed scenario the transmission lines should be executed or not. It is observed that issues regarding connectivity agreement and the LTA have still not yet been sorted out. In order to sort out the issues, we direct that a committee headed by Chief (Engineering) of the Commission with members from CEA, CTU, NLDC, NTPC and other generators shall be constituted to look into all the issues with respect to connectivity agreement, LTA and Implementation Agreement and work out modalities for smooth implementation and recovery of the cost of the UITP within 60 days of issue of this order.”*

10. The Committee submitted its report on 27.6.2019 and it was uploaded on the Commission’s website for comments/ suggestions of the stakeholders. The recommendations of the Committee are as under:

**“Recommendations:**

25. Part of the system of UITP Scheme in Alaknanda Basin is under construction whereas none of generators has signed the Tripartite Transmission Agreement for connectivity as well as Tripartite LTA agreement except in case of Tapovan-Vishnugad where some of the beneficiaries have signed the LTA.

26. Further, the 400kV transmission line between Srinagar (now Khandukhal) Substation and Kashipur (now Rampura) Substation is required to be implemented matching with the commissioning schedule of generation projects.

27. With the completion of above line, the UITP scheme executed by the PTCUL shall achieve the status of ISTS. Since the entire UITP scheme is being implemented



by PTCUL as deemed transmission licensee, the entire scheme may have to be considered as ISTS as already held by the Commission in petition No. 133/MP/2012.

28. In order to ensure the recovery of the transmission charges and proper utilization of the transmission system, the Tripartite Transmission Agreements for Connectivity and Tripartite LTA agreements should be put in place by PTCUL/Generators/Beneficiaries and CTU based on the transmission system identified in the intimations immediately.

29. The recovery of the cost of the deemed Inter-State Transmission System, as identified by the Central Transmission Utility followed by the Tripartite Transmission Agreement and Tripartite LTA Agreement, shall be dealt as per the CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 and subsequent amendment thereof.”

11. BSES Rajdhani Power Ltd. (BRPL) vide letter dated 17.7.2019, *inter alia*, submitted the following comments/ suggestions:

“a) BRPL has signed PPA with the plants whose power evacuation network will be developed under UITP.

b) It is evident from the Committee report that UITP scheme was proposed for evacuation of 5406 MW which later on revised to 1451 MW. If any generator under revised scheme gets scrapped or delayed there should not be liability on beneficiaries due to its stranded capacity, cost of transmission assets built for such capacity and their time over-run cost.

c) As per Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019, if any generating station for which agreement(s) have been executed for supply of electricity to the beneficiaries on or before 5.1.2011 and the financial closure for the said generating station has not been achieved by 31.3.2019, such projects are not be eligible for determination of tariff as per CERC Tariff Regulations unless fresh consent of the beneficiaries is obtained and furnished. So, it is requested that any generator which does not meet above criteria should not be considered under UITP.”

12. UPCL vide its letter dated 18.7.2019, *inter alia*, submitted the following comments/ suggestions:

“a) The report of the committee on “Issues involved in Uttarakhand Integrated Transmission Project (UITP)” has made its recommendation from Para 25 to 29 of the said report. From the perusal of recommendation in the report it is clear that no such recommendation has been made which would affect or have any implication upon UPCL.

b) In regard to Para 25 the generators other than Tapovan-Vishnugad where some of the beneficiaries have signed the LTA, other remaining generators and the beneficiaries shall be directed to sign tripartite transmission agreement for connectivity as well as tripartite LTA agreement.





c) UPCL accepted the recommendation made in Para 26 and requested CERC to direct the authorities responsible for ensuring the matching of the commissioning schedule of the generating projects and the said 400 kV transmission line and the responsibility for such deviations be kindly fixed so that no other utility suffers due to their inaction.

d) With regard to Para 27 of the report wherein the recommendation that the UITP scheme shall achieve the status of ISTS with the completion of above line, that either the said infrastructure should be considered as ISTS as was proposed and permitted or else the same should not be considered as commissioned because it has not yet achieved the purpose for which it has been constructed and does not qualify to be considered as commissioned as per law. That the committee has not recommended to consider the said line as intra-state network before the completion of Srinagar-Kashipur line however ambiguity may arise due to the order passed by the CERC as has been mentioned above and therefore it is requested to kindly clarify that before completion of the said line it should not be considered as an intra-state network. If required, necessary directions may be issued against showing the said line as commissioned in table 4 (page 7 of the said report) captioned "Details of Associated Transmission System (ATS) in Alaknanda Basin". It is further humbly submitted that the line cannot have two status, one before completion of scheme and another after its completion, the status before the execution shall be considered as ISTS scheme under execution and the entire scheme should therefore be considered as ISTS as has been recommended. CERC would appreciate that the different elements of the scheme are bound to be constructed at different point of times and either the utility or the generator has to wait for its commissioning.

e) With regard to Para 28 of the report UPCL fully accepted the recommendations, and also request the CERC to pass directions in regard to execution of recommended agreements on urgent basis so that the responsibilities and liabilities are defined and later on the defaulting parties may not try to shift its burden on others. This recommendation is also in line with the submission made by UPCL as mentioned above. CERC would appreciate that had these necessary requirements been complied earlier the complication created after order dated 20.4.2018 would not have arose and UPCL would not have been burdened with liability for which it is not responsible."

### **Investment Approval**

13. Clause 36 of Regulation 3 of the 2014 Tariff Regulations with regard to Investment Approval (IA) provides as under:

*"Investment Approval means approval by the Board of the generating company or the transmission licensee or Cabinet Committee on Economic Affairs (CCEA) or any other competent authority conveying administrative sanction for the project including funding of the project and the timeline for the implementation of the project.*

*Provided that the date of Investment Approval shall reckon from the date of the resolution/minutes of the Board/approval by competent authority."*



14. The Petitioner vide affidavit dated 28.7.2020 has placed on record the letter dated 4.5.2007 of Ministry of Power, Government of India (MoP) on Uttaranchal Power Sector Development Project with ADB assistance, which envisaged construction of a power evacuation system for 5406 MW in the four river basins of the State at an estimated cost of ₹2,44,674 lakh. Ministry of Power, Government of India found the proposal in order.

15. The Petitioner has placed on record the letter dated 24.6.2009 of the CEA regarding modified DPRs of 7 transmission assets, which mentions that the total estimated cost of these works was as ₹1,28,880 lakh including IDC and in which, CEA, *inter alia*, opined that 400 kV D/C Srinagar PH-Srinagar (Twin) line (for which the Petitioner has filed the instant petition) that was approximately 14 km in length was generally in order.

16. The Petitioner has also submitted copy of the approval of Board of Directors dated 29.9.2005 for the proposal to borrow from the ADB for implementing the Power Evacuation Integrated Transmission Development Plan covering 40 kV, 220 kV and 132 kV transmission lines and associated sub-stations.

17. The Petitioner has also submitted the letter dated 14.10.2011 of Government of Uttarakhand regarding sanction and release of fund for transmission project under construction with the support of ADB, which also included Srinagar PH-Srinagar line of approximately 14 km.

18. The Petitioner vide affidavit dated 28.9.2018 has submitted copy of Resolution dated 28.9.2018 whereby the Petitioner's Board approved the Revised Cost



Estimates of 400 kV D/C Srinagar-Srinagar (PH) line at the total cost of ₹5,089.90 lakh as against the original DPR cost of ₹3,439.28 lakh.

19. On perusal of above materials, we find that MoP, through its letter dated 4.5.2007, found the proposal of Uttaranchal Power Sector Development Project with ADB assistance with an estimated cost of ₹2,44,674 lakh in order. We also find that the modified DPRs of 7 transmission assets, one of them being 400 kV D/C Srinagar PH-Srinagar (Twin) Transmission Line, i.e. the instant asset was approved by the CEA vide its letter dated 24.6.2009. Further, we find that the Board of Directors of the Petitioner on 29.9.2005 approved the proposal to borrow from the ADB for implementing Power Evacuation Integrated Transmission Development Plan covering 40 kV, 220 kV and 132 kV transmission lines and associated sub-stations.

20. In view of the facts mentioned in paragraph 19 above, we consider that the transmission asset has been accorded Investment Approval as per Clause 36 of Regulation 3 of the 2014 Tariff Regulations.

#### **Scheduled Date of Commercial Operation**

21. Clause 54 of Regulation 3 of 2014 Tariff Regulations with regard to scheduled COD provides as under:

*“54. ‘Scheduled Commercial Operation Date or SCOD’ shall mean the date(s) of commercial operation of a generating station or generating unit or block thereof or transmission system or element thereof as indicated in the Investment Approval or as agreed in power purchase agreement or transmission service agreement as the case may be, whichever is earlier.”*

22. The Petitioner vide affidavit dated 18.10.2016 has submitted that no scheduled COD was mentioned in the IA for the asset, including that of 400 kV D/C Srinagar PH-Srinagar line. The Petitioner has, however, submitted that as per the Contract Agreement, the timeline for execution of the design, supply, erection,



testing and successful commissioning of 400 kV D/C Tapovan-Pipalkoti and Srinagar-Srinagar PH line and LILO of 400 kV D/C Vishnuprayag-Muzaffarnagar line at Pipalkoti was mentioned as 730 days from the start date of 3.9.2011 and therefore, the completion date was 2.9.2013.

23. Thus, no document is available on record with regard to scheduled COD of 400 kV D/C Srinagar PH-Srinagar line except for the Contract Agreement submitted by the Petitioner. The Contract Agreement was executed by the Petitioner with its contractor on 6.5.2011. Clause 3.1 of the Contract Agreement defines the effective date as under:

*“The effective date upon which the period until the Time for Completion of the facilities shall be counted from is the date when all the following conditions have been fulfilled.*

*A. This Contract Agreement has been duly executed for and on behalf of the employer and the Contractor.*

*B. The Contractor has submitted to the Employer the performance security and advance payment guarantee.*

*C. The Employer has paid the Contractor the advance payment.”*

24. The Petitioner vide affidavit dated 28.7.2020 has submitted that Clauses A, B and C of the Contract Agreement were satisfied on 6.5.2011, 27.4.2011 and 3.9.2011 respectively by execution of the Contract Agreement, submission of the Performance Bank Guarantee and payment of advance to the Contractor. Therefore, the Petitioner has submitted that the effective date or the start date is 3.9.2011 and accordingly, the completion date works out to 2.9.2013 (730 days from the start date).

25. As the Petitioner has admitted that no scheduled COD was mentioned in the Investment Approval, we accept 2.9.2013 as the scheduled COD in the present



case, derived from the Contract Agreement dated 6.5.2011 based on which effective date for start of the Project was 3.9.2011 and completion date was 2.9.2013 (730 days from effective date).

### **Scope of the Project**

26. The Petitioner had submitted DPR for construction of transmission system in Uttarakhand under ADB package to CEA vide letter dated 2.6.2009 and CEA sent its comments on the same on 24.6.2009. Element-wise detail of the transmission system is as under:

<b>Sl. No.</b>	<b>Elements of the Transmission System</b>
1	220 kV D/C Lata Tapovan PH-Joshimath (Twin) line
2	220 kV D/C Joshimath-Pipalkoti (Quad) line
3	400 kV D/C Vishnugad PH-Pipalkoti (Twin) line
4	400 kV D/C Srinagar PH-Srinagar (Twin) line
5	400 kV D/C Srinagar-Kashipur (Quad) line
6	2 nos. 400 kV bays at existing Kashipur Sub-station
7	400/220 kV GIS sub-station at Pipalkoti

27. The Petitioner has served the petition on the Respondents and notice of this Petition has been published in the newspapers in accordance with Section 64 of the Act. No comments/ objections have been received from the general public in response to the aforesaid notice published in the newspaper by the Petitioner. Uttarakhand Power Corporation Ltd. (UPCL), Respondent No.16, vide affidavit dated 27.12.2019 has filed its reply to the petition and rejoinder thereto has been filed by the Petitioner vide affidavit dated 22.1.2020. Issues raised by the Respondent UPCL and response by the Petitioner thereon are discussed in subsequent paragraphs of this order.

28. This order has been issued after considering the submissions made in the petition vide affidavits dated 31.3.2016, 13.10.2016, 18.10.2016, 29.9.2018, 21.1.2019, 23.12.2019, 23.10.2020 and 10.7.2020; reply of UPCL vide affidavit



dated 27.12.2019; and Petitioner's rejoinder to the reply of UPCL vide affidavit dated 22.1.2020.

29. Having heard the parties and perused the material on record, we proceed to dispose of the Petition.

30. The Petitioner has submitted that the Commission vide order dated 20.4.2018 in Petition No. 80/TT/2016 and Petition No. 81/TT/2016 granted interim tariff to the instant asset subject to actual COD observing as under:

*"4. The petitioner, on 27.12.2016, has submitted the trial operation certificate dated 14.12.2016 issued by the Northern Regional Load Dispatch Centre (NRLDC) in respect of the assets covered in Petition Nos. 80/TT/2016 and 81/TT/2016. As per the NRLDC Certificate, the trial run in respect of the assets covered in Petition Nos. 80/TT/2016 and 81/TT/2016 was completed on 30.7.2016 and 26.7.2016 respectively. Accordingly, the COD of the assets covered in Petition Nos. 80/TT/2016 and 81/TT/2016 is provisionally as 31.7.2016 and 27.7.2016 respectively and a final view will be taken at the time of final order. The actual COD is considered as per the trial operation certificate issued by the NRLDC. There is a time over run in commissioning of both the assets. The details of the commercial operation date are as follows:-*

<b>Petition No.</b>	<b>Name of the Asset</b>	<b>Scheduled COD</b>	<b>Anticipated COD</b>	<b>Actual COD</b>
Petition No. 80/TT/2016	400 kV Srinagar Substation <b>(Asset-A)</b>	2.9.2013	31.3.2016	31.7.2016
Petition No. 81/TT/2016	400 kV Srinagar-Srinagar PH line <b>(Asset-B)</b>	2.9.2013	31.3.2016	27.7.2016

Xxxxxxxxxxxxxx

Xxxxxxxxxxxxxx

8. The Commission will examine the report of the above said Committee separately. The 400 kV Srinagar- Srinagar PH Line and 400 kV Srinagar Substation were conceived as a part of UITP scheme to evacuate the power from various HEP. It is observed that the petitioner has commissioned the transmission elements i.e. 400 kV Srinagar-Srinagar PH Line and 400 kV Srinagar Substation to evacuate the share of home state as of now. The transmission system of the UITP scheme is not connected with the inter-state transmission system till date.

Xxxxxxxxxxxxxx

Xxxxxxxxxxxxxx



12. The AFC allowed in this order shall be applicable from the date of commercial operation of the transmission system. Since the assets covered in the instant case are used to transfer power of home state from Srinagar PH of GVK Industries Ltd, the use of the assets is attributed to the home state till the transmission elements are connected to the inter-State transmission system. The petitioner shall recover the transmission charges allowed as above from the distribution licensee of the state i.e. Uttarakhand Power Corporation Ltd. through billing as per the Commission order in Petition No.155/MP/2016. The relevant portion of the order dated 4.1.2017 in Petition No.155/MP/2016 is as under:-

"17. The petitioner is directed to provide YTC details of its assets to NLDC and CTU. NLDC shall provide the same to RPC for inclusion in RTAs. The assets shall be billed along with bill 1 under the provisions of the Central Electricity Regulatory Commission (Sharing of inter-State Transmission charges and losses), Regulations, 2010 as amended from time to time. ISTS licensees shall forward the details of YTC to be recovered as per formats provided under the Sharing Regulations to NLDC. ISTS licensees shall forward the details of entity along with YTC details from whom it needs to be recovered as per applicable order's of the Commission to NLDC (only in cases of bilateral billing due to nonavailability of upstream/downstream system). Based on the input received from respective licensees and the Commission's order, NLDC shall provide details of billing pertaining to non-availability of upstream/downstream system to respective RPCs for incorporation in RTAs for all cases of bilateral billing. On this basis, CTU shall issue the bills. The process given in this para shall be applicable to all future cases of similar nature and all concerned shall duly comply with the same."

Accordingly, the billing, collection and disbursement of the transmission charges shall be made along with bill 1 under the provisions of Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, as amended from time to time in terms of the procedure specified in order dated 4.1.2017 in Petition No.155/MP/2016. Further, the transmission charges allowed in this order shall be subject to adjustment as per Regulation 7(7) of the 2014 Tariff Regulations."

31. The Petitioner has submitted that the Commission in the above-mentioned order observed that the transmission asset covered in the instant petition is being used for transfer of home State quota of power from Srinagar PH of GVK and has not been connected with the inter-State transmission system. Therefore, transmission charges for the transmission asset would be recovered by the Petitioner from UPCL. The Petitioner has submitted that UPCL has not paid the said charges till now even after recovering them from the State consumers as per the Commission's afore-mentioned order.





### **Date of Commercial Operation (COD)**

32. As regards COD of the transmission asset i.e. 400 kV D/C Srinagar PH-Srinagar (Twin) line, the Petitioner submitted Trial Operation Certificate dated 14.12.2016 issued by NRLDC for successful completion of trial operation of the instant asset on 26.7.2016 observing as under:

*"400/220 kV Sub-station and 400 kV Srinagar HEP-Srinagar D/c line is a part of UITP scheme, however same would be required along with the commissioning of first generation project out of 5 generation project (Tapovan Vishnugad, Pipalkoti, Phata Byung & Singoli Bhatwari HEP). NRLDC is issuing this certificate on the request of M/s PTCUL as per procedure for charging of new Transmission element, issuance of this trial run certificate does not imply that the transmission elements mentioned above are part of ISTS from the date/time of completion of trial run operation."*

33. The Petitioner has also submitted MD certificate vide affidavit dated 23.12.2019 declaring that 400 kV Srinagar-Srinagar PH Ckt-I and Ckt-II were ready and capable of operation to their full capacities w.e.f. 27.7.2016, as per clause 6.3(A)(4)(vi) of the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2010.

34. The Commission in Petition No. 80/TT/2016 has, vide order dated 20.4.2018, provisionally approved the COD of 300/220/132 kV sub-station as 31.7.2016 based upon claim of the Petitioner and documents submitted in support of its claim. The instant asset i.e. 400 kV Srinagar-Srinagar PH Transmission Line could not be put to regular service despite being ready on 27.7.2016 as 400/220/132 Srinagar Sub-station was not ready and was put under commercial operation on 31.7.2016 as provisionally approved by the Commission. Both assets i.e. 400 kV Srinagar-Srinagar PH Transmission Line (instant asset) and the 300/220/132 kV sub-station (covered under Petition No. 80/TT/2016) are under scope of the Petitioner. Therefore, we approve the COD of the instant asset, 400 kV Srinagar-Srinagar PH





transmission line as 31.7.2016 keeping in mind trial operation certificate, MD certificate and data submitted in Forms and COD of sub-station under scope of the Petitioner.

**Time over-run**

35. The transmission asset was scheduled to be put into commercial operation on 2.9.2013 and it was put into commercial operation on 31.7.2016. Thus, there was time over-run of about 35 months. The Petitioner has submitted that construction of 400 kV Sub-station and Srinagar-Srinagar Transmission Line was delayed due to severe right of way issues with the land owners on whose land the transmission line was to be constructed and also because of acute delay in forest clearance of the project which was finally granted on 17.11.2014. The Petitioner vide affidavit dated 23.12.2019 has submitted the reasons for time over-run with documentary evidence.

Details of time over-run, activity-wise along with brief reasons of delay are as follows:

Activity	Period of activity				Time over-run (In months)	Reason(s) for Time over-run
	Planned/ Scheduled		Actual			
	From	To	From	To		
LOA	6.5.2011	-	9.9.2011	-	04	<ul style="list-style-type: none"> <li>• The effective date of contract was 9.9.2011 i.e. the date of release of advance payment.</li> <li>• Forest case was prepared after detailed survey and submitted in forest department in December, 2012 for getting necessary approval. Stage- I clearance of forest case was obtained on 23.9.2013 for the instant asset vide Gol order dated 23.9.2013.</li> <li>• Final forest case approval obtained on 17.11.2014 for instant asset vide GoU order dated 17.11.2014.</li> <li>• During construction of</li> </ul>
Supply of Structure, equipment's etc.	10.9.2011	21.8.2013	10.9.2015	21.4.2016	32	
Civil works and erection	5.3.2012	7.9.2013	12.9.2015	8.7.2016	34	
Testing and commissioning	23.8.2013	7.9.2013	9.7.2016	27.7.2016	34	
Forest clearance	15.1.2012	7.7.2012	7.12.2012	17.11.2014	28	
RoW issues	-	-	14.11.2014	6.4.2016		
Any other reason for delay, if any						



						<p>instant asset, various hindrances were created by local land owners/ villagers and created Right of Way issues at different locations. RoW issues were faced at the beginning of work in private land on 14.11.2014 and issues of land owners were addressed/ resolved from time to time. Some land owners approached Civil Court, Junior Division Kirtinagar (Tehri Garhwal) to resolve their issue. As per the direction of the court, final RoW issues were resolved on 6.4.2016.</p> <ul style="list-style-type: none"> <li>• During construction work at some locations, various low voltage lines 132 kV, 33 kV and 11 kV were required to be shifted/ shut down. For the same PTCUL approached UPCL on 18.12.2015. Due to non-permission of shut down of low voltage line during Char Dham Yatra, hot line crossing method was explored in 20.5.2016 in some locations and line construction work was completed in those locations accordingly.</li> </ul>
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36. The Petitioner has submitted that forest clearance proposal was submitted in December 2012 after detailed survey. Stage-I and Stage-II forest clearances were accorded on 23.9.2013 and 17.11.2014 respectively. Forest clearance has involvement of State/ Central Government and the Petitioner/ its contractor has no control on State/ Central Government.



37. We have considered submission of the Petitioner. We note that the Petitioner submitted proposal for forest clearance in December 2012. The scheduled time for giving forest clearances (Stage-I and Stage-II) is normally 300 days. Hence, delay beyond 300 days is condoned. Accordingly, we condone time over-run from 11.10.2013 to 17.11.2014 (402 days).

38. The Petitioner has submitted few letters of November and December 2014 towards its claim against RoW issues. These letters are from the land owners seeking compensation. The Petitioner has submitted that vide letter dated 16.2.2016 to DM, Tehri it had sought support against agitation caused by local residents. The Petitioner has also submitted that cases were filed with the civil court by land owners. However, we note that the details submitted by the Petitioner do not show when the agitation was started by the landowners and when it was finally settled. Therefore, we are not in a position to take a view that the delay was on account of agitation by landowners and consequent RoW problem. The Petitioner, however, is granted liberty to submit full details of the ROW issue at the time of truing up for the Commission to take a final view. As of now, we are not condoning the delay on this count in absence of relevant and adequate documents.

39. The Petitioner has submitted that at some locations, various low voltage lines 132 kV, 33 kV and 11 kV were required to be shifted/ shut down and for the same it approached UPCL on 18.12.2015. Due to non-permission of shut down of low voltage line during Char Dham Yatra, hot line crossing method was explored on 20.5.2016 in some locations and line construction work was completed in those locations accordingly. The Petitioner has not submitted the details of the transmission lines that were required to be shifted/ shut down. It has also not



submitted the normal timeline for such shifting/ shut down. The Petitioner has not provided details of those locations which were explored for crossing on 20.5.2016. In the absence of such details, we are not in a position to take a view as to whether the delay was on account of these factors. The Petitioner, however, is granted liberty to submit the full details at the time of truing up for the Commission to take a final view. As of now, we are not condoning the delay on this count in absence of relevant and adequate documents.

40. Accordingly, only 402 days of time over-run is condoned. The details of time over-run condoned and not condoned are summarized below:

Particulars	
SCOD	2.9.2013
Time up to SCOD (days/ months)	730 days/24 months
COD	31.7.2016
Time over-run	35 months (approx.)
Time over-run condoned	13.5 months*
Time over-run not condoned	21.5 months

\* From 11.10.2013 to 17.11.2014 (402 days)

### **Capital Cost**

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

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

*(2) The capital cost of a new project shall include the following:*

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

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

*(bi) Any gain or loss on account of foreign exchange risk variation pertaining to the loan amount availed during the construction period shall form part of the capital cost.*

*(c) Increase in cost in contract packages as approved by the Commission;*

*(d) Interest during construction and incidental expenditure during construction as computed in accordance with Regulation 11 of these regulations;*



- (e) capitalised Initial spares subject to the ceiling rates specified in Regulation 13 of these regulations;
- (f) Expenditure on account of additional capitalization and de-capitalisation determined in accordance with Regulation 14 of these regulations;
- (g) Adjustment of revenue due to sale of infirm power in excess of fuel cost prior to the COD as specified under Regulation 18 of these regulations; and
- (h) Adjustment of any revenue earned by the transmission licensee by using the assets before COD."

42. The Petitioner vide affidavit dated 28.9.2018 has submitted Auditor's certificate dated 11.9.2018 along with Form 5B in respect of expenses incurred for the instant asset amounting to ₹3,88,740 lakh as on claimed COD i.e. 27.7.2016 and actual/ projected expenses during 2016-17 of ₹1,16,310 lakh certified by the Auditor as per books of account of the Petitioner. The details of the approved capital cost, capital cost as per RCE and capital cost claimed by the Petitioner are as under:

(₹ in lakh)

Apportioned Approved Capital Cost	RCE Apportioned Approved Capital Cost	Capital Cost Up to COD	ACE in 2016-17	ACE in 2017-18	Projected ACE in 2018-19	Estimated completion cost
3439.28	5089.90	3887.40	726.29	51.48	385.33	5050.50

43. The Petitioner vide affidavit dated 23.12.2019 has submitted the following break-up of the revised cost in comparison to original approved cost:

(₹ in lakh)

Sr. No.	Details	DPR Cost	Revised Cost Claimed
1	Supply Cost	1858.06	2162.01
2	Erection Cost	520.22	1070.80
3	Tower Type Test Cost	0	94.22
4	Price Variation	343.00	663.00
5	Difference in service tax	0.0	40.90
6	IDC	115.00	197.26
7	Forest clearance cost	423.00	630.55
8	Project Overhead expenses	165.00	191.75
9	PTCC cost	15.00	0
	Total	3439.28	5050.50



44. The Petitioner has submitted that cost over-run in the case of the transmission asset is mainly due to increase in supply cost, erection cost, tower type test, price variation, service tax difference, forest clearance cost and project overhead expenses.

45. UPCL vide affidavit dated 27.12.2019 has submitted that there is 47% increase in the cost of the subject transmission line. The justifications given for cost over-run such as (a) quantities of different supply and erection items getting changed as per the detailed survey; and (b) tower design getting changed thereby increasing tower weight due to hilly terrain, are unreasonable.

46. Detailed heads of cost over-run claimed by the Petitioner and our analysis thereon are as under:

**a) Increase in supply cost**

(i) The Petitioner has claimed increase in cost due to increase in items as per bill of quantity. The Petitioner vide affidavit dated 18.10.2016 has submitted revised Form-5B indicating bills of quantity as per original estimate and as on COD.

(ii) We observe that as per revised Form-5B, quantity of steel has increased from 1201.22 MT in original estimate to 1581.527 MT as on COD. The reasons for same as furnished in the petition are that as per detailed survey, the quantities of different supply and erection items had to be changed and also due to hilly terrain, the tower design needed to be changed. On account of these, the tower weight underwent increase. We note that the cost of steel has increased (approximately by 31%) from ₹862.06 lakh to ₹1134.99 lakh as per Form-5B submitted with affidavit dated 18.10.2016. We observe that supply cost for tower steel increased due to increase in quantity. Considering proportionate increase in quantity, the increase in supply cost for tower steel is allowed.



**b) Increase in erection cost**

(i) The Petitioner has claimed that erection cost has increased more than 100% from the original envisaged erection cost of ₹520.22 lakh. The Petitioner has submitted that cost has increased due to increase in benching volume (excavation & concreting increased), additional hotline stringing cost due to Char Dham Yatra season, change in design of tower as per site condition and erection quantity increase due to increase in weight of tower as per site condition. However, we observe that the Petitioner has not submitted break-up of claimed erection cost under each of the said items and documentary proof to justify the same. Accordingly, we provisionally allow the increase in the erection cost in the instant petition and direct the Petitioner to submit the detailed break-up and documentary proof to justify its claims at the time of truing-up.

**c) Cost over-run due to tower type test**

(i) The Petitioner has submitted that its tower design got changed due to hilly terrain. It has claimed cost for type test as a cost over-run. We note that although at the stage of DPR, the Petitioner had not considered cost towards tower type test, the same became necessary at the implementation stage. However, the Petitioner has not furnished documentary proof of expenditure on tower type test during erection stage. Therefore, we allow the cost claimed by the Petitioner on provisional basis which is subject to submission of supporting documents at the time of truing-up.

**d) Price variation**

(i) The Petitioner has claimed increase in cost due to price variation by ₹320 lakh.

(ii) We observe that the Petitioner has not submitted any details on this count as to on which items price variation occurred such as what was the original price of items and their final price. For want of information, we are not allowing this expenditure claimed by the Petitioner in the instant petition. These items shall be considered at the time of truing-up once detailed justification is submitted at the time of truing-up.



**e) Difference in Service Tax**

(i) Cost over-run due to change in service tax claimed by the Petitioner is ₹40.90 lakh.

(ii) It is observed that the Petitioner had not envisaged the change in Service Tax rates at the stage of DPR. The Petitioner has submitted that during the execution of the project, there were changes in Service Tax rates which led to increase in cost compared to estimated cost. However, the Petitioner has not submitted documents (service tax rates at the time of preparation of estimates and at execution stage; copy of notification of service tax; impact of service tax on the Petitioner; sample invoices raised by service tax authorities etc.) in support of the claim. Therefore, we provisionally allow cost over-run due to this reason, which shall be reviewed at the time of true-up on submission of requisite documents.

**f) Interest During Construction**

(i) The Petitioner has claimed that IDC increased to ₹197.26 lakh from ₹115.00 lakh originally envisaged.

(ii) We have provisionally condoned delay of 13.5 months (subject to truing up) out of 35 months claimed by the Petitioner. Accordingly, proportional IDC of ₹39.43 lakh is allowed.

**g) Forest clearance cost and overhead expenses**

(i) Vide affidavit dated 23.12.2019, the Petitioner has collectively claimed the increased cost towards forest clearance of ₹630.55 lakh and towards Project overhead expenses of Rs. 145.64 lakh as Incidental Expenses During Construction.

(ii) We have already condoned delay of 13.5 months (subject to truing-up) out of 35 months claimed by the Petitioner. Accordingly, we are allowing IEDC, including forest clearance cost, proportionally i.e. ₹493.34 lakh.

**h) PTCC Cost**

(i) As per original approval, the Petitioner had envisaged ₹15.00 lakh under PTCC head.





(ii) We observe, however, that the Petitioner has not incurred any expenditure under this head. Therefore, no cost is allowed under this head.

47. Accordingly, the following capital cost is considered for the transmission asset:

(₹ in lakh)				
Sr. No.	Details	DPR Cost	Revised Cost Claimed	Cost Allowed as on 31.3.2019
1	Supply Cost	1858.06	2162.01	2162.01
2	Erection Cost	520.22	1070.80	1070.80
3	Tower Type Test Cost	0	94.22	94.22
4	Price Variation	343.00	663.00	343.00
5	Difference in service tax	0	40.90	40.90
6	IDC	115.00	197.26	39.43
7	Forest clearance cost	423.00	630.55	493.34
8	Project Overhead expenses (IEDC)	165.00	191.75	
9	PTCC cost	15.00	0	0
	Total	3439.28	5050.50	4243.70

48. In view of above discussions, the capital cost as on 31.3.2019 is being restricted at ₹4243.70 lakh, as against the Petitioner's claim of ₹5050.50 lakh, which is well within the RCE apportioned approved cost of ₹5089.90 lakh indicated in paragraph 42 above.

#### **Interest During Construction (IDC)**

49. Vide Auditor's Certificate dated 11.9.2018, the Petitioner has claimed IDC of ₹197.26 lakh up to claimed COD (27.7.2016) in respect of the transmission asset. The Petitioner has also submitted that un-discharged liability portion of IDC would not be included in the projected ACE. Further, the Petitioner has not submitted any un-discharged liability in respect of IDC. Therefore, it is assumed that IDC claimed is on cash basis and adjustment of capital cost in this regard is not required.



50. The Petitioner has submitted details of interest corresponding to ADB loan for each financial year up to COD. Based on these details and taking into consideration the loan deployed as per Form 9C, IDC has been worked out up to 31.7.2016.

51. Accordingly, allowable IDC has been calculated as ₹39.43 lakh out of the claim of ₹197.26 lakh up to the approved COD i.e. 31.7.2016. The remaining IDC of ₹157.83 lakh has been disallowed on account of time over-run (subject to truing up) not condoned. The Petitioner is directed to submit repayment schedule of ADB loan at the time of truing up.

**Incidental Expenditure During Construction (IEDC)**

52. The Petitioner vide Auditor's certificate dated 11.9.2018 has claimed IEDC of ₹776.19 lakh up to claimed COD i.e. 27.7.2016. Further, through the same certificate, the Petitioner has claimed IEDC of ₹45.65 lakh and ₹0.47 lakh as ACE during 2016-17 and 2017-18 periods. The Petitioner has claimed the same amount in Form 12A.

53. The Petitioner vide affidavit dated 28.9.2018 has submitted that un-discharged liability portion of IEDC would not be included in the projected ACE. Further, the Petitioner has not submitted any un-discharged liability in respect of IEDC claimed as on COD. Therefore, it is assumed that IEDC claimed is on cash basis and adjustment of capital cost in this regard is not required. Further, it may be observed in Auditor's certificate dated 11.9.2018 that IEDC of ₹45.65 lakh and ₹0.47 lakh are included in the ACE of ₹726.29 lakh and ₹51.48 lakh claimed during 2016-17 and 2017-18 periods respectively.

54. We have worked out dis-allowable IEDC of ₹282.85 lakh on *pro-rata* basis of the time over-run not condoned. Further, we are not inclined to allow IEDC claim of



₹45.65 lakh and ₹0.47 lakh of ACE during 2016-17 and 2017-18 periods respectively as the IEDC claims are beyond COD.

55. IEDC (project overhead cost + cost towards forest clearance) of ₹493.34 lakh up to 31.7.2016 has been allowed in the instant petition. The IEDC allowed for the subject asset will be reconsidered in the light of the directions of Appellate Tribunal for Electricity (APTEL) in judgment dated 2.12.2019 in Appeal Nos. 95 of 2018 and 140 of 2018 as implemented vide Commission's Order dated 4.2.2020 in petition no 1/TT/2019, at the time of truing up, after all the assets under the Project scope are put to commercial use and the actual quantum of IEDC is known. The Petitioner is directed to furnish the IEDC details of all the assets of the instant transmission project at the time of true-up of capital cost.

#### **Initial Spares**

56. The Petitioner has not claimed any Initial Spares for the transmission asset.

#### **Additional Capital Expenditure (ACE)**

57. The Petitioner has claimed the following ACE:

(₹ in lakh)

<b>ACE in 2016-17</b>	<b>ACE in 2017-18</b>	<b>Projected ACE in 2018-19</b>	<b>Estimated ACE</b>
726.29	51.48	385.33	1163.10

58. Cut-off date of the instant asset was 31.3.2019. The Petitioner has submitted that ACE beyond COD during 2016-17, i.e. ₹726.29 lakh, is on account of balance payments. For the reasons indicated in paragraph 54, IEDC amounting to ₹45.65 lakh, included in the ACE claim of 2016-17, is not being allowed. The Petitioner has not submitted any justification of expenditure for 2017-18. Accordingly, ACE in 2017-18 is not allowed. The Petitioner has also not submitted any justification for projected additional capital expenditure for 2018-19. Accordingly, projected ACE in



2018-19 is not allowed. However, the Petitioner is directed to submit details and justification of ACE for 2017-18 and 2018-19 at the time of truing up for us to consider the same.

### **Capital Cost allowed as on COD**

59. Based on the above, the capital cost allowed as on COD under Regulation 9(2) of the 2014 Tariff Regulations is as under:

		(₹ in lakh)
Sr. No.	Particulars	Capital Cost
1	Capital Cost claimed as on COD i.e. 27.7.2016	3887.40
2	Capital Cost considered as on approved COD i.e. 31.7.2016	3887.40
3	Less: IDC (on account of time over-run not condoned)	157.83
4	Less: IEDC (on account of time over-run not condoned)	282.85
5	<b>Capital Cost allowed as on COD</b>	<b>3446.72</b>
6	Additional Capitalization allowed during 2016-17 (₹726.29 lakh - ₹45.65 lakh)	680.64
7	Additional Capitalization allowed during 2017-18	0.00
8	Additional Capitalization allowed during 2018-19	0.00
9	<b>Capital Cost allowed as on 31.3.2019</b> (5+6+7+8)	<b>4127.36</b>

60. As discussed in paragraph 48, the capital cost as on 31.3.2019 was restricted at ₹4243.70 lakh, as against the Petitioner's claim of ₹5050.50 lakh. However, in view of ACE during 2017-18 and 2018-19 not being allowed, the capital cost has further come down to ₹4127.36 lakh as on 31.3.2019.

### **Debt- Equity Ratio**

61. Clauses 1 and 5 of Regulation 19 of the 2014 Tariff Regulations specify as follows:

*“(1) For a project declared under commercial operation on or after 1.4.2014, the debt-equity ratio would be considered as 70:30 as on COD. 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.”

“(5) Any expenditure incurred or projected to be incurred on or after 1.4.2014 as maybe 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.”

62. The capital cost as on the date of commercial operation arrived at as above and ACE has been considered in the ratio of 70:30. The details of debt-equity as on approved COD i.e. 31.7.2016 and 31.3.2019 of the transmission asset as per Regulation 19 of the 2014 Tariff Regulations are as follows:

Particulars	As on COD (31.7.2016)		As on 31.3.2019	
	Amount (₹ in lakh)	%	Amount (₹ in lakh)	%
Debt	2412.70	70.00	2889.15	70.00
Equity	1034.02	30.00	1238.21	30.00
<b>Total</b>	<b>3446.72</b>	<b>100.00</b>	<b>4127.36</b>	<b>100.00</b>

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

63. Regulation 26 of the 2014 Tariff Regulations are provides as under:

“(1) The loans arrived at in the manner indicated in regulation 19 shall be considered as gross normative loan for calculation of interest on loan

(2) The normative loan outstanding as on 1.4.2014 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2014 from the gross normative loan.

(3) The repayment for each of the year of the tariff period 2014-19 shall be deemed to be equal to the depreciation allowed for the corresponding year/period. In case of decapitalization 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 decapitalisation 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 generating company or the transmission licensee, as the case may be, shall make every effort to re-finance the loan as long as it results in net savings on interest and in that event the costs associated with such re-financing shall be borne by the beneficiaries and the net savings shall be shared between the beneficiaries and the generating company or the transmission licensee, as the case may be, in the ratio of 2:1.*

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

*(9) In case of dispute, any of the parties may make an application in accordance with the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, as amended from time to time, including statutory re-enactment thereof for settlement of the dispute:*

*Provided that the beneficiaries or the long term transmission customers /DICs shall not withhold any payment on account of the interest claimed by the generating company or the transmission licensee during the pendency of any dispute arising out of re-financing of loan."*

64. The Petitioner has submitted that IoL has been worked out as per Regulation 26 of the 2014 Tariff Regulations. The Petitioner vide affidavit dated 28.9.2018 had submitted regarding treatment of the financial aid provided by GoU. The Petitioner vide affidavit dated 23.12.2019 in response to query of asset-wise latest status of ADB loan and amount of grant received, if any, has submitted that till date no clear assurance from GoU has been received regarding treatment of ADB funding in the ratio of 90% grant and 10% loan. Hence, the ADB funding has been considered by it as 100% loan.



65. UPCL has refuted the submissions of the Petitioner on this count. UPCL has submitted that Form 9-B attached with the petition shows dates and exchange rates on which the funds are received and cumulative foreign currency received comes out as US\$ 4.58 lakh, which is also acknowledged as per Form 9A (in Form 9 wrong figures are given). It has been submitted that in contrast to it, foreign component is taken as US\$ 5.2 lakh in Form 4C and capital cost is also derived considering this figure which is not justified and in fact wrong production of facts. UPCL has submitted that domestic component and IDC calculated comes out to exactly 30% of the total capital cost and the same requires prudence check.

66. We have considered the submissions of the Petitioner and UPCL. Treatment of ADB loan has been considered as 100% loan in the instant petition. Accordingly, allowable IoL has been worked out as detailed below:

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

67. IoL approved for the transmission asset is as follows:

Particulars	(₹ in lakh)		
	2016-17 (pro-rata)	2017-18	2018-19
Gross loan opening	2412.70	2889.15	2889.15
Cumulative Repayment up to COD/ previous year	0.00	133.67	351.59
Net Loan-Opening	2412.70	2755.48	2537.56
Additional Capitalization during the year	476.45	0.00	0.00
Repayment during the year	133.67	217.92	217.92





Net Loan-Closing	2755.48	2537.56	2319.63
Average Loan	2584.09	2646.52	2428.60
Rate of Interest	9.0000%	9.0000%	9.0000%
Interest	<b>155.47</b>	<b>238.19</b>	<b>218.57</b>

68. The Petitioner is directed to submit documentary proof in respect of repayment schedule of the loan and rate of interest applied thereon at the time of truing up.

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

69. Clauses (1) and (2) of Regulation 24 and Clauses (1) and (2) of Regulation 25 of the 2014 Tariff Regulations specify as under:

*“24. Return on Equity: (1) Return on equity shall be computed in rupee terms, on the equity base determined in accordance with regulation 19.*

*(2) Return on equity shall be computed at the base rate of 15.50% for thermal generating stations, transmission system including communication system and run of the 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: (i) in case of projects commissioned on or after 1st April, 2014, an additional return of 0.50 % shall be allowed, if such projects are completed within the timeline specified in Appendix-I:*

*(ii) the additional return of 0.5% shall not be admissible if the project is not completed within the timeline specified above for reasons whatsoever:*

*(iii) additional RoE of 0.50% may be allowed if any element of the transmission project is completed within the specified timeline and it is certified by the Regional Power Committee/National Power Committee that commissioning of the particular element will benefit the system operation in the regional/national grid:*

*(iv) the rate of return of a new project shall be reduced by 1% 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)/ Free Governor Mode Operation (FGMO), data telemetry, communication system up to load dispatch centre or protection system:*

*(v) as and when any of the above requirements are found lacking in a generating station based on the report submitted by the respective RLDC, RoE shall be reduced by 1% for the period for which the deficiency continues:*

*(vi) additional RoE shall not be admissible for transmission line having length of less than 50 kilometers.*

25Tax on Return on Equity





(1) The base rate of return on equity as allowed by the Commission under Regulation 24 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 the 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 income on other income stream (i.e., income of non-generation or non-transmission business, as the case may be) shall not be considered for the calculation of "effective tax rate".

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

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

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

*Illustration.-*

(i) In case of the generating company or the transmission licensee paying Minimum Alternate Tax (MAT) @ 20.96% including surcharge and cess:

Rate of return on equity =  $15.50 / (1 - 0.2096) = 19.610\%$

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

(a) Estimated Gross Income from generation or transmission business for FY 2014-15 is Rs 1000 crore.

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

(c) Effective Tax Rate for the year 2014-15 =  $\text{Rs } 240 \text{ Crore} / \text{Rs } 1000 \text{ Crore} = 24\%$

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

70. The Petitioner has submitted that RoE has been computed as per Regulation 24 of the 2014 Tariff Regulations. The Petitioner has claimed RoE for 2015-16 to 2018-19 period on the basis of MAT Rate @21.34%. However, MAT Rate notified by Government of India is 21.3416%, 21.3416% and 21.5488% for 2016-17, 2017-18 and 2018-19 respectively. Accordingly, pre-tax RoE of 19.705%, 19.705% and



19.758% for 2016-17, 2017-18 and 2018-19 respectively have been considered.

Accordingly, RoE allowed for the transmission asset is as follows:

(₹ in lakh)			
Particulars	2016-17 (pro-rata)	2017-18	2018-19
Opening Equity	1034.02	1238.21	1238.21
Addition due to Additional Capitalisation	204.19	0.00	0.00
Closing Equity	1238.21	1238.21	1238.21
Average Equity	1136.11	1238.21	1238.21
Return on Equity (Base Rate) (%)	15.50	15.50	15.50
Effective Tax Rate / MAT rate (%)	21.342	21.342	21.549
Rate of Return on Equity (Pre-Tax) (%)	19.705	19.705	19.758
Return on Equity (Pre-Tax)	149.66	243.99	244.65

71. The Petitioner is directed to submit calculation of effective tax rate and/or documentary evidence of MAT rate at the time of truing up.

### **Depreciation**

72. Regulation 27 of the 2014 Tariff Regulations provides as follows:

*"27. Depreciation:(1) Depreciation shall be computed from the date of commercial operation of a generating station or unit thereof or a transmission system including communication system or element thereof. 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 or elements thereof.*

*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 transmission system, weighted average life for the generating station of the transmission system shall be applied. Depreciation shall be chargeable from the first year of commercial operation. In case of commercial operation of the asset for part of the year, depreciation shall be charged on pro rata basis.*

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

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



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

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

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

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

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

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

*(6) In case of the existing projects, the balance depreciable value as on 1.4.2014 shall be worked out by deducting the cumulative depreciation as admitted by the Commission upto 31.3.2014 from the gross depreciable value of the assets.*

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

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

73. The Petitioner has submitted that depreciation has been worked out as per Regulation 27 of the 2014 Tariff Regulations. The transmission asset was put into commercial operation on 31.7.2016 and it will accordingly complete 12 years beyond 2018-19. Thus, depreciation has been calculated annually based on Straight Line Method and at rates specified in Appendix-II. Accordingly, depreciation has been worked out on the basis of capital expenditure as on COD and ACE incurred



thereafter, if any, wherein depreciation for the first year has been calculated on *pro-rata* basis for the year/ part of year. The details of the depreciation worked out for the transmission asset are as follows:

Particulars	(₹ in lakh)		
	2016-17 (Pro-rata)	2017-18	2018-19
Gross block as on COD	3446.72	4127.36	4127.36
Addition during 2014-19 due to Additional Capitalization	680.64	0.00	0.00
Gross Block as on 31 <sup>st</sup> March	4127.36	4127.36	4127.36
Average Gross Block	3787.04	4127.36	4127.36
Rate of Depreciation (%)	5.2800	5.2800	5.2800
Depreciable Value	3408.33	3714.62	3714.62
Remaining Depreciable Value	3408.33	3580.95	3363.03
Depreciation during the year	<b>133.67</b>	<b>217.92</b>	<b>217.92</b>

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

74. Regulation 29(4)(a) of the 2014 Tariff Regulations specifies norms for O & M Expenses for the transmission system. Norms specified in respect of the transmission asset are as under:

Particulars	(₹ in lakh/ km)				
	2014-15	2015-16	2016-17	2017-18	2018-19
D/C (Twin moose)	0.707	0.731	0.755	0.780	0.806

75. The allowable O&M Expenses for the transmission asset are as follows:

Particulars	(₹ in lakh)		
	2016-17 (pro-rata)	2017-18	2018-19
400 kV D/C (Twin moose) - 14.2 kms	7.17	11.08	11.45

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

76. Clause 1(c) of Regulation 28 and Clause 5 of Regulation 3 of the 2014 Tariff Regulations specify as under:

#### ***28. Interest on Working Capital***

*(1) The working capital shall cover:*

*(c) Hydro generating station including pumped storage hydro electric generating station and transmission system including communication system:*

*(i) Receivables equivalent to two months of fixed cost;*

*(ii) Maintenance spares @ 15% of operation and maintenance expenses specified in*



regulation 29; and

(iii) Operation and maintenance 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 1.4.2014 or as on 1st April of the year during the tariff period 2014-15 to 2018-19 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.

(5) “**Bank Rate**” means the base rate of interest as specified by the State Bank of India from time to time or any replacement thereof for the time being in effect plus 350 basis points;”

77. The Petitioner is entitled IWC as per the 2014 Tariff Regulations. The components of working capital and the Petitioner’s entitlement to interest thereon are discussed hereunder:

a. **Maintenance Spares:**

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

b. **O&M Expenses:**

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

c. **Receivables:**

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

d. **Rate of Interest on Working Capital:**

As per clause 28(3) of 2014 Tariff Regulations SBI Base Rate Plus 350 bps as on 1.4.2016 (i.e.12.80%) has been considered as the rate of interest on working capital for the transmission asset.

78. Accordingly, annual transmission charges approved for the instant asset is as under:

(₹ in lakh)



<b>Annual Transmission Charges</b>	<b>2016-17 (pro-rata)</b>	<b>2017-18</b>	<b>2018-19</b>
Depreciation	133.67	217.92	217.92
Interest on Loan	155.47	238.19	218.57
Return on Equity	149.66	243.99	244.65
Interest on Working Capital	9.94	15.84	15.45
O&M Expenses	7.17	11.08	11.45
<b>Total</b>	<b>455.91</b>	<b>727.02</b>	<b>708.04</b>

### **Sharing of Transmission Charges**

79. With regard to sharing of the transmission charges, the Commission in its interim order dated 20.4.2018 in Petition No. 80/TT/2016 and Petition No. 81/TT/2016 observed as under:

*“12. The AFC allowed in this order shall be applicable from the date of commercial operation of the transmission system. Since the assets covered in the instant case are used to transfer power of home state from Srinagar PH of GVK Industries Ltd, the use of the assets is attributed to the home state till the transmission elements are connected to the inter-State transmission system. The petitioner shall recover the transmission charges allowed as above from the distribution licensee of the state i.e. Uttarakhand Power Corporation Ltd. through billing as per the Commission order in Petition No.155/MP/2016. The relevant portion of the order dated 4.1.2017 in Petition No.155/MP/2016 is as under:-*

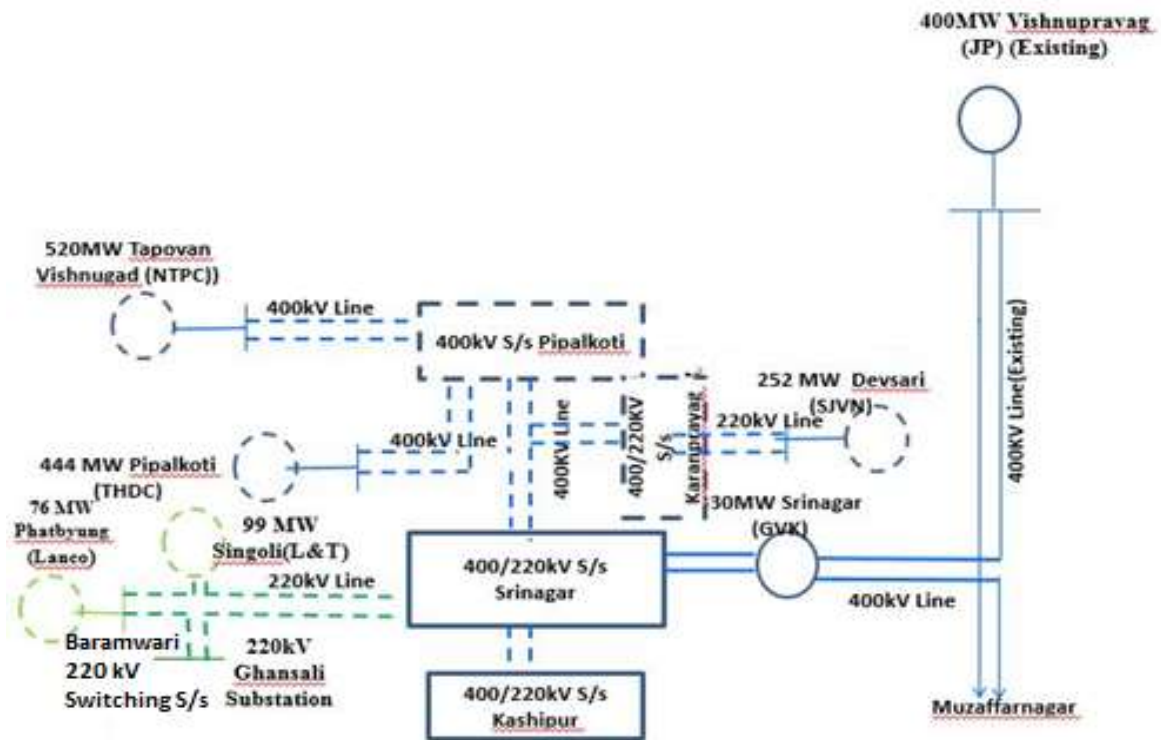
*“17. The petitioner is directed to provide YTC details of its assets to NLDC and CTU. NLDC shall provide the same to RPC for inclusion in RTAs. The assets shall be billed along with bill 1 under the provisions of the Central Electricity Regulatory Commission (Sharing of inter-State Transmission charges and losses), Regulations, 2010 as amended from time to time. ISTS licensees shall forward the details of YTC to be recovered as per formats provided under the Sharing Regulations to NLDC. ISTS licensees shall forward the details of entity along with YTC details from whom it needs to be recovered as per applicable order's of the Commission to NLDC (only in cases of bilateral billing due to non-availability of upstream/downstream system). Based on the input received from respective licensees and the Commission's order, NLDC shall provide details of billing pertaining to non-availability of upstream/downstream system to respective RPCs for incorporation in RTAs for all cases of bilateral billing. On this basis, CTU shall issue the bills. The process given in this para shall be applicable to all future cases of similar nature and all concerned shall duly comply with the same.”*

*Accordingly, the billing, collection and disbursement of the transmission charges shall be made along with bill 1 under the provisions of Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, as amended from time to time in terms of the procedure specified in order dated 4.1.2017 in Petition No.155/MP/2016. Further, the transmission charges allowed in this order shall be subject to adjustment as per Regulation 7(7) of the 2014 Tariff Regulations.”*





80. Revised UITP scheme in Alaknanda basin as per connectivity granted by CTU to generators as submitted by the Petitioner is given as below:



81. The Petitioner vide affidavit dated 23.12.2019 has submitted that there is no agreement between the Petitioner and GVK. Further, UITP scheme was not under any regulatory framework initially so as to ensure that necessary agreements between the Petitioner and generators are signed timely and transmission system/ elements are implemented in certainty matching with the generators. The Petitioner was under contractual obligations to implement these transmission elements for proper and timely utilization of funds as per conditions of ADB funding (multi trench funding facility 2006-2016). The revised COD of generating projects is as under:

Sr. No.	Name of Generator	COD as per LTOA applied to PTCUL (UITP as intra-State)	COD as per connectivity application to PTCUL (UITP as intra-State)	COD as per grant of Connectivity by CTU (UITP as deemed ISTS)	COD as per IA signed (UITP as deemed ISTS)	Revised COD till date



1	Lanco Mandakini Hydro Energy Pvt. Limited. (PhataByung HEP) - 76 MW	September 2010	November 2012	September 2018	September 2018	NCLT - December 2022
2	L&T Uttaranchal Hydropower Limited. (Singoli Bhatwari HEP) - 99 MW	January 2012	June 2013	October 2018	October 2018	March 2020
3	NTPC Limited. (Tapovan Vishnugad HEP) - 520 MW	September 2011	March 2014	March 2019	March 2019	December 2020
4	THDC Limited. (Vishnugad Pipalkoti HEP) 444 MW	Not Applied	-	December 2019	-	June 2022
5	SJVN Limited. (Devsari HEP) - 252 MW	September 2012	July 2016	July 2022	-	May 2026

82. The Petitioner has further submitted that generators which were liable to bear the transmission charges of the asset still have not commissioned their generating projects. So far, UPCL, being the sole user of this ISTS network is drawing power on these assets and as per the Commission's order dated 20.4.2018, it is liable to bear the transmission charges of these assets. However, UPCL has not yet released any payment to the Petitioner.

83. In response, UPCL vide affidavit dated 27.12.2019 has made the following submissions:

- a) Cost impact of the Commission's order dated 20.4.2018 regarding recovery of transmission charges of the instant asset from UPCL is unjust and is an unnecessary burden on the consumers of Uttarakhand.
- b) UPCL has no Power Purchase Agreement (PPA) with GVK HEP for bilateral power purchase. However, in present case, UPPCL is the sole beneficiary from GVK power. For evacuation of power from generating station of GVK, there is a LILO arrangement with 400 kV Vishnuprayag-Muzaffarnagar transmission line. Prior to commissioning of the instant





transmission asset, contracted power to Uttar Pradesh and royalty power to Uttarakhand were being evacuated through 400 kV Vishnuprayag-Muzaffarnagar transmission line through Northern Grid and as such no separate evacuation network is required for evacuation of royalty power from power plant of GVK to Uttarakhand. The contention that Uttarakhand State is using the instant transmission asset to evacuate its royalty power is *per se* completely wrong and misplaced. Majority of hydro plants envisaged under UITP stand delayed. Therefore, direction to UPCL to bear the costs of these transmission assets for evacuation of only royalty power is neither justifiable nor a financially prudent proposition and doing such will be an undue burden on the consumers of Uttarakhand.

c) UITP was planned with the condition that the cost recovery mechanism will remain between the Petitioner and upcoming generators and that in this proposed arrangement other constituents would not be required to have direct commitment for payment of transmission charges.

d) The Commission in its order dated 31.1.2013 in Petition No. 133/MP/2012 has granted the UITP scheme inter-State status, but has also directed to categorize the intra-state network separately, if any, on which UERC would act as per the Act. The Petitioner has not categorized networks as inter-State and intra-State and has not informed the Commission and UERC regarding the same.

84. In response, the Petitioner vide affidavit dated 24.1.2020 has made the following submissions:

a) Generators who were liable to bear the transmission charges of these assets have delayed the commissioning of generating projects. So far, UPCL being the sole user of this ISTS network is drawing more power than allocated 12% free power from these assets. As per the Commission's order dated 20.4.2018 in the instant petition, UPCL is required to bear the transmission charges of these assets. However, UPCL still has not released any payment to the Petitioner.



b) UPCL's submission that it was never a part of the planning of UITP Scheme and nothing is erected for UPCL's consumption is incorrect. UITP scheme was planned after discussions held in different forums and in the presence of the constituents of NR Region. UPCL is one of the constituents of the Northern Region. Reply of UPCL that it has not executed agreement of any kind with the Petitioner for erection of transmission infrastructure nor does it have any PPA with the generators involved is incorrect. UPCL is one of the beneficiaries of CSGS like 520 MW Tapovan-Vishnugad of NTPC, 444 MW Vishnugad-Pipalkoti HEP of THDC, 171 MW Lata-Tapovan HEP (on hold) and State-owned generating projects of UJVN Ltd. MoP has already allocated power from CSGS projects to Uttarakhand and UPCL has executed PPA with these generators. Thus, the power to be evacuated is not only free power allocated by the MoP but also additional quantum agreed between NTPC and UPCL under PPA dated 16.11.2010.

c) As per PPA, UPCL has agreed to bear the transmission charges from the bus-bar of these CSGS projects i.e. UPCL would be liable to pay transmission charges of transmission system implemented by the Petitioner for evacuation of power from these HEPs. Instant asset is part of transmission system implemented by the Petitioner for evacuation of power from these HEPs. Hence, UPCL's claim that it was never a part of the UITP Scheme is completely wrong.

d) Beside 12% royalty power (39.60 MW) from GVK's 330 MW Srinagar HEP, UPCL is also consuming power between 100 MW-120 MW through the instant asset. So, the contentions raised by UPCL are devoid of merit as these assets are required and are presently being fully utilized by UPCL.

e) UPCL is signatory of Transmission Service Agreement (TSA) executed with PGCIL and the said elements form part of the same. Therefore, it is clear that pursuant to the signing of TSA, UPCL became entitled to use ISTS network and liable to pay transmission charges as determined by the Commission.



85. UPCL vide its affidavit dated 10.7.2020 on the issue of sharing of transmission charges of the subject assets has submitted as under:

a) The Petitioner has interconnected its 132 kV Srinagar Sub-station (Old) with the newly erected 132 kV Srinagar (Khandukhal) through LILO arrangement of old 132 kV Rishikesh-Srinagar line and in further upstream have connected 220 kV and 400 kV Srinagar (Khandukhal) Sub-stations. Therefore, question as to why UPCL was connected to these assets as such does not arise because UPCL was already connected to a downstream sub-station/ network and the Petitioner has revised the upstream connections with the coming of the concerned assets without any agreement/ requirement of UPCL. The under-construction power plants of NTPC, L&T, LANCO etc. were considered to be benefitted through the instant assets and accordingly the Commission had granted UTP infrastructure the status of ISTS.

b) Royalty power was being received even prior to the erection of the said assets, which itself is sufficient to show that UPCL was connected to the said asset for receiving its royalty power would only be an assumption and against facts. Load is flowing through the connected instant asset based on the electrical laws and the same is evident from the load flow data also which suggests that power flow through instant asset generally remains between 60-80 MW (at times reach up to 120 MW) which is much higher than the royalty share of the State in GVK HEP.

86. In response, the Petitioner has made the following submissions vide affidavit dated 28.7.2020:

a) The Petitioner has so far not recovered any tariff whatsoever, in terms of the tariff approved by the Commission whereas UPCL has already claimed tariff of the instant asset on account of the Commission's order dated 20.4.2018 and included the same in its Annual Revenue Requirements (ARR) and submitted it before UERC for approval. UERC vide order dated 27.2.2019 at paragraph 5.6.1 approved the claim of UPCL as ₹99.82 crore (₹36.92 crore + ₹62.90 crore against past arrears) and UPCL has already



recovered the transmission charges against these two assets from consumers of the State till 31.3.2020. Further, UERC has approved ARR of UPCL for FY 2020-21 amounting to ₹36.92 crore and tariff allowed by the Commission is being recovered by UPCL w.e.f. 1.4.2020, but not passed on to the Petitioner. Therefore, it has led to a scenario where the Petitioner has been burdened with the repayments of the loans for the funding obtained in commissioning the above-mentioned assets and expenditures incurred on O&M Expenses of these assets, but no payments have been realized by the Petitioner since the commissioning of the instant transmission assets.

b) GVK HEP has been using the instant transmission system as an alternate evacuation system when the existing arrangement i.e. LILO of 400 kV D/C Vishnuprayag-Muzaffarnagar transmission line at GVK HEP is under shut-down for maintenance or due to technical constraints. Therefore, it is clear that instant asset have been put to use for evacuating ISTS power from GVK HEP to UPPTCL in cases of contingencies.

c) Against 12% royalty power (39.60 MW) from GVK's 330 MW Srinagar HEP, UPCL is also drawing power between 100 MW-120 MW through the transmission asset.

87. The Commission in its interim order dated 20.4.2018 observed that the Petitioner shall recover the transmission charges allowed from UPCL as the subject assets are used for transfer power of home State from Srinagar PH of GVK Industries Ltd and the use of the assets is attributed to the home State till the transmission elements are connected to the inter-State transmission system.

88. In response to the observations of the Commission in order dated 20.4.2018, UPCL has made the following submissions:

a) UPCL has been drawing royalty power from GVK even before the transmission asset was commissioned and the subject asset was not intended for GVK power. UPCL does not have PPA with GVK. The transmission asset has been envisaged as intra-State system for generators



who had to carry their power through ISTS beyond Kashipur. The asset has been agreed at NRPC, CEA stating that agreement with constituents is not required and that payment arrangement shall be between the Petitioner and generators.

b) The Petitioner has failed to construct Srinagar-Kashipur Transmission Line due to which the assets have not been connected to ISTS and the burden of inefficiency of Petitioner is falling on UPCL.

c) The Commission vide its order dated 31.1.2013 in Petition No. 133/MP/2012 has granted scheme the status of inter-State but has also directed to categorize the intra-State network separately, if any, on which UERC would act as per the Act. In case transmission asset is treated as intra-State, UERC should have the jurisdiction.

89. The Petitioner has submitted that since UPCL is drawing power from transmission asset, it should make payment for such assets. It has further submitted that UPCL has included the tariff of the transmission asset in its ARR and recovered the same but is not making payment to the Petitioner. UPCL has stated that it has full right to protect its consumers even when it has included tariff in its ARR.

90. The Commission vide order dated 31.1.2013 in Petition No. 133/MP/2012 had observed as follows:

***“Issue No. 1: Nature of the transmission lines being developed by the Petitioner***

*“20. The above developments necessitate us to examine the true nature of the transmission systems being developed by the petitioner and to pass consequential directions for early execution of the projects matching with the commissioning of the Central Sector generating stations being developed in the river basin of Uttarakhand. It is an admitted fact that UITP scheme is being developed by the petitioner as an integrated scheme for evacuation of power from the Central Sector generating stations, State Sector generating stations and Independent Power Producers in the State of Uttarakhand. The UITP system will be linked to both State network and the ISTS network. It is also an admitted fact that 85% of the power proposed to be generated by the generating stations being developed on the river basins of the State is meant for consumption outside the State. Therefore,*



*the transmission systems being developed by the Petitioner under UITP scheme are primarily meant for wheeling power outside the State. That being the case, it needs to be considered whether the transmission system remains an intra-State transmission system as claimed by the petitioner. Section 2 (37) of the Act defines "intra-State transmission system" to mean any system for transmission of electricity other than an inter-State transmission system. Section 2(36) of the Act defines inter-State transmission system as under:"*

*"(36) "inter-State transmission system" includes –*

*(i) any system for the conveyance of electricity by means of main transmission line from the territory of one State to another State;*

*(ii) the conveyance of electricity across the territory of an intervening State as well as conveyance within the State which is incidental to such inter-State transmission of electricity;*

*(iii) the transmission of electricity within the territory of a State on a system built, owned, operated, maintained or controlled by a Central Transmission Utility."*

*It is seen from the definition of inter-State transmission system that the conveyance of electricity within the territory of a State can be said to be part of inter State transmission system in two circumstances. Firstly, such conveyance of electricity within the State should be incidental to inter-State transmission of electricity. Secondly, the transmission of electricity should take place within the territory of a State on a system built, owned, operated, maintained or controlled by the Central Transmission Utility. In this case, the transmission systems from the generating stations proposed on the river basin of Uttarakhand are not being built by CTU and therefore, the transmission system will not be covered under section 2(36)(iii) of the Act. However, the transmission lines will be utilised primarily for conveyance of power from the Central Sector generating stations to the beneficiaries outside the State. Since the transmission systems will be connected to the substation of PGCIL at Kashipur from where power will be transmitted to the beneficiaries outside the State, the subject transmission systems become incidental to inter-State transmission system under section 2(36)(ii) of the Act and are a part of the inter-State transmission system."*

**Issue No.2: Which agency should execute the subject transmission lines?**

*"23. The petitioner has approached the Commission for approval of deemed ISTS status to the UITP scheme being executed by it. We have already come to the conclusion that the transmission system developed by the petitioner is part of inter-State Transmission System and shall be used for wheeling power outside the State. Considering the fact that the petitioner is a deemed transmission licensee, we in exercise of power under section 12 of the Act authorise the petitioner to execute the UITP Scheme and also accord deemed ISTS status to the UITP scheme being executed by the petitioner to the extent it is used for transmission of inter-State power."*

**Issue No. 5: Consequential Directions**

*"33. It is essential that the transmission lines which have been accorded deemed ISTS status are segregated from the dedicated transmission lines and intra-State transmission lines to obviate any confusion about the liability for payment of transmission charges. The dedicated transmission lines from intra-state generators, i.e. those generators selling power only within the State of Uttarakhand, from the generation bus bar upto the main transmission line/pooling*





*point of Uttarakhand would be considered as dedicated transmission lines/intra-state transmission system and the transmission system beyond the main transmission line/pooling point of Uttarakhand would be considered as a combination of intra-State transmission system and inter-State transmission system and paid for accordingly. That is, the Yearly transmission charges of the various elements of such system would be divided into intra-State portion and inter-State portion, based on installed capacity of the generating stations using the common system. Charges for the ISTS would be shared by beneficiaries of ISTS. For the intra-state transmission system, the charges would be shared as directed by UERC.”*

91. The UITP scheme was granted deemed ISTS status through the above-said order to the extent it is used for transmission of inter-State power. Further, it was also directed in the above order to segregate intra-State portion and inter-State portion. The Petitioner vide letter dated 20.5.2017 to the Commission, in the context of Committee meeting held on 5.5.2017 has stated regarding “Segregation of Intra-State, Inter-State Transmission System and dedicated system” as under:

a) 5 numbers of Connectivity applications have been received by CTU for hydro generation projects for Alaknanda basin, namely (i) Phata Byung, (ii) Singoli Bhatwari, (iii) Tapovan Vishnugad (iv) Vishnugad Pipalkoti and (v) Devsari HEP. Connectivity has been granted by PGCIL to Tapovan Vishnugad HEP (520 MW) of NTPC, Pipalkoti HEP (444 MW) of THDC and Singoli Bhatwari HEP (99 MW) of L&T.

b) In compliance to the directions of the Commission, the Petitioner pursued the matter with CTU for vetting of ISTS being implemented under UITP by the Petitioner and PGCIL vide letter dated 11.11.2016 vetted the network. As of now, there is no intra-State generation project that would be utilizing UITP Scheme till 2019-20 as intra-State generators i.e. Tamak Lata (250 MW), Bowala-Nandprayag (300 MW) and Nandprayag-Langrasu (100 MW) of UJVN Ltd. are in initial stages. During previous LTA/ Connectivity meeting of NR it was discussed that after change in injection point, revised LTA intimations have to be issued and LTA agreements need to be signed/ modified. CTU informed that the connectivity/ LTA will be granted by it after 39<sup>th</sup> Standing Committee Meeting of NR Constituents and 10<sup>th</sup> LTA Meeting of NR constituents regarding Connectivity/ LTA applications scheduled to be





held on dated 29<sup>th</sup> and 30<sup>th</sup> May, 2017. Decision on segregation of Intra-State, Inter-State and dedicated system has to be taken by CTU in line with the Commission order dated 31.1.2013 in Petition No. 133/MP/2012.

92. The Petitioner vide the above-said letter has enclosed CTU letter dated 11.11.2016 with subject "Vetting of inter-state transmission system (ISTS) being implemented under UITP by PTCUL". The Petitioner vide letter dated 11.11.2016 has vetted the components of UITP scheme which includes the transmission asset.

93. We have considered the submissions of the parties. We observe that UITP scheme was granted deemed ISTS status vide Commission's order dated 31.1.2013 in Petition No. 133/MP/2012. The transmission asset covered in instant petition has been in regular service with effect from 31.7.2016 after successful trial operation. The Petitioner has furnished details of power flow through the subject transmission asset. While granting provisional tariff vide order dated 20.4.2018, it was directed that transmission charges for the subject transmission asset would be borne by UPCL. However, considering the facts that the subject transmission asset has been declared as deemed ISTS and is in regular service with effect from 31.7.2016, the transmission charges of the said asset shall be recovered from the ISTS charges pool. Accordingly, the arrears of the transmission charges from the date of commercial operation till the billing period commensurate with the date of issue of this Order shall be raised by the CTU in accordance with the provisions of the Regulation 15(2)(b) (second bill to the DICs) and bills for the subsequent billing periods shall be raised in accordance with the provisions of Regulation 15(2)(a) (first bill to the DICs) of the Central Electricity Regulatory Commission (Sharing of inter-State transmission Charges and Losses) Regulations, 2020.



94. The Petitioner has contended that UPCL has collected the transmission charges approved by the Commission vide order dated 20.4.2018 for use of the subject transmission assets from the consumers of Uttarakhand State but the same has not been paid to the Petitioner. UPCL has not refuted the Petitioner's contention. As the transmission charges of the transmission assets have been included in the ISTS charges pool as per the instant order, the Petitioner and UPCL are directed to approach UERC for settlement of the transmission charges already collected by UPCL from the consumers of Uttarakhand.

95. To summarise, the trued-up Annual Fixed Charges allowed for the transmission asset for the period from COD to 31.3.2019 are:

(₹ in lakh)			
Annual Transmission Charges	2016-17 ( <i>pro-rata</i> )	2017-18	2018-19
Total	455.91	727.02	708.04

96. This order disposes of Petition No. 81/TT/2016.

sd/-  
**(Arun Goyal)**  
Member

sd/-  
**(I.S. Jha)**  
Member

sd/-  
**(P.K. Pujari)**  
Chairperson

