

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 85/TT/2019

Coram :

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

Date of Order: 25.01.2021

In the matter of

Approval under Regulation-86 of CERC (Conduct of Business) Regulations, 1999 and CERC (Terms and Conditions of Tariff) Regulations, 2014 for determination of Transmission tariff from COD to 31.3.2019 for **Asset-I:** +/-200 MVAR STATCOM at 400/220 kV Nalagarh Sub-station and **Asset-II:** +/-300 MVAR STATCOM at 400 kV Lucknow Sub-station under "Provision of STATCOM at Nalagarh and Lucknow in Northern Region".

And in the matter of

Power Grid Corporation of India Limited
"Saudamini", Plot No.2,
Sector-29, Gurgaon -122 001

.... Petitioner

Versus

1. Rajasthan Rajya Vidyut Prasaran Nigam Limited,
Vidyut Bhawan, Vidyut Marg,
Jaipur - 302 005
2. Ajmer Vidyut Vitran Nigam Ltd
132 kV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar,
Jaipur- 302 017 (Rajasthan)
3. Jaipur Vidyut Vitran Nigam Ltd
132 kV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar,
Jaipur-302 017 (Rajasthan)
4. Jodhpur Vidyut Vitran Nigam Ltd
132 kV, GSS RVPNL Sub- Station Building,
Caligiri Road, Malviya Nagar,
Jaipur-302 017 (Rajasthan)



5. Himachal Pradesh State Electricity Board
Vidyut Bhawan, Kumar House Complex Building II,
Shimla-171 004
6. Punjab State Electricity Board
The Mall, Patiala-147 001
7. Haryana Power Purchase Centre
Shakti Bhawan, Sector-6
Panchkula (Haryana) 134 109
8. Power Development Deptt.
Govt. of Jammu & Kashmir
Mini Secretariat, Jammu
9. Uttar Pradesh Power Corporation Ltd.
(Formerly Uttar Pradesh State Electricity Board)
Shakti Bhawan, 14, Ashok Marg
Lucknow - 226 001
10. Delhi Transco Ltd
Shakti Sadan, Kotla Road,
New Delhi-110 002
11. BSES Yamuna Power Limited
BSES Bhawan, Nehru Place
New Delhi
12. BSES Rajdhani Power Ltd.
BSES Bhawan, Behind Nehru Place,
New Delhi-110 019
13. North Delhi Power Limited,
Power Trading & Load Despatch Group
Cennet Building, Pitampura
New Delhi – 110 034
14. Chandigarh Administration
Sector -9, Chandigarh
15. Uttarakhand Power Corporation Ltd.
Urja Bhawan, Kanwali Road
Dehradun
16. North Central Railway
Allahabad.
17. New Delhi Municipal Council
Palika Kendra, Sansad Marg
New Delhi-110 002

...Respondents

Parties present:



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

For Respondent: Shri R.B. Sharma, Advocate, BRPL
Shri Mohit Mudgal, Advocate, BYPL
Shri Sanjay Srivastav, BRPL

ORDER

The present petition has been filed by Power Grid Corporation of India Ltd. ("the Petitioner") for determination of transmission tariff from COD to 31.3.2019 under Regulation 8 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as "the 2014 Tariff Regulations") in respect of the following assets under "Provision of STATCOM at Nalagarh and Lucknow in Northern Region" (hereinafter referred as "the transmission project"):

Asset I: +/-200 MVAR STATCOM at 400/220 kV Nalagarh Sub-station;

Asset II: +/-300 MVAR STATCOM at 400 kV Lucknow Sub-station;

2. The Petitioner has made the following prayers:

- "1) Approve the Transmission Tariff for the tariff block 2014-19 block for the assets covered under this petition, as per para-6 above.*
- 2) Admit the capital cost as claimed in the Petition and approve the Additional Capitalisation incurred/ projected to be incurred.*
- 3) Allow tariff up to 90% of the Annual Fixed Charges in accordance with clause 7 (i) of Regulation 7 Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for purpose of inclusion in the PoC charges.*
- 4) Allow the Petitioner to approach the Commission for suitable revision in the norms for O&M expenditure for claiming the impact of wage hike from 1.1.2017 onwards;*
- 5) Allow the Petitioner to recover the shortfall or refund the excess Annual Fixed Charges, on account of Return on Equity due to change in applicable Minimum Alternate/Corporate Income Tax rate as per the Income Tax Act, 1961 (as amended from time to time) of the respective financial year directly without making any application before the Commission as provided under clause: 25 of the Tariff Regulations, 2014.*



- 6) *Approve the reimbursement of expenditure by the beneficiaries towards petition filing fee, and expenditure on publishing of notices in newspapers in terms of Regulation 52 Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014, and other expenditure (if any) in relation to the filing of petition;*
- 7) *Allow the Petitioner to bill and recover Licensee fee and RLDC fees and charges, separately from the respondents in terms of Regulation: 52 of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014.*
- 8) *Allow the Petitioner to bill and adjust impact on Interest on Loan due to change in Interest rate on account of floating rate of interest applicable during 2014-19 period, if any, from the respondents;*
- 9) *Allow the initial spare as procured in the current petition in full under Regulation 54 of the CERC (Terms and Condition of Tariff) Regulation, 2014, "Power to Relax";*
- 10) *Allow the Petitioner to bill and recover GST on Transmission charges separately from the respondents, if GST on Transmission of electricity is withdrawn from the exempted (negative) list at any time in future. Further any taxes and duties including cess, etc. imposed by any Statutory/Govt./Municipal Authorities shall be allowed to be recovered from the beneficiaries.*

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

Background

3. The brief facts of the case are as follows:
 - a) The transmission project was discussed and agreed in the 32nd Standing Committee meeting of Northern Region held on 31.8.2013. The transmission project was later discussed and agreed for implementation in the 29th NRPC meeting held on 13.9.2013.
 - b) The Investment Approval (IA) for the said transmission project was accorded by Board of Directors of the Petitioner in its 332nd meeting held on 19.8.2016 (notified *vide* Memorandum No. C/CP/STATCOM in NR, dated 29.8.2016) at an estimated cost of ₹43189 lakh including IDC of ₹2623 lakh based on April 2016 price level.
 - c) The scope of the instant transmission project is as follows:



Substation	Mechanically switched Compensation		Dynamic Compensation (STATCOM)
	Reactor x125 MVAR	Capacitor x125 MVAR	MVAR
Lucknow	2	1	+/- 300
Nalagarh	2	2	+/- 200

d) The status of COD for assets covered in the instant petition is as under:

S.N.	Name of Asset	COD as per petition	COD as per affidavit dated 10.2.2020
1	Asset I: +/-200 MVAR STATCOM at 400/220 kV Nalagarh Sub-station	1.2.2019 (Anticipated)	31.3.2019 (Actual)
2	Asset II: +/-300 MVAR STATCOM at 400 kV Lucknow Sub-station	1.2.2019 (Anticipated)	31.3.2020 (Anticipated)

e) The Commission *vide* RoP of hearing dated 19.8.2020 directed the Petitioner to submit the present/ actual status of COD of Asset-II. In response, the Petitioner *vide* affidavit dated 14.9.2020 has submitted that anticipated COD of Asset-II is 31.10.2020 and the petition for this asset shall be filed after its commercial operation as per 2019 Tariff Regulations.

f) Since Asset-II has not been declared under commercial operation during 2014-19, the Petitioner is granted liberty to file fresh petition for approval of tariff of Asset-II under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (hereinafter referred to as “the 2019 Tariff Regulations”).

g) Accordingly, we are determining the tariff of only Asset-I in this order for 2014-19 period.

4. The details of the Annual Transmission Charges claimed by the Petitioner are as under:

Particulars	(₹ in lakh)
	Asset-I 2018-19 (Pro-rata)
Depreciation	1.91
Interest on Loan	2.04



Return on Equity	2.14
Interest on Working Capital	0.15
O&M Expenses	0.38
Total	6.62

5. The details of the Interest on Working Capital (IWC) claimed by the Petitioner are as follows:

Particulars	(₹ in lakh)
	Asset-I 2018-19 (Pro-rata)
Maintenance Spares	20.61
O&M Expenses	11.45
Receivables	402.20
Total	434.26
Rate of Interest	12.20%
Interest on working Capital	0.15

6. The Respondents are the distribution companies, electricity departments and transmission licensees, which are procuring transmission services from the Petitioner and are mainly beneficiaries of the Northern Region.

7. The Petitioner has served the petition on the Respondents and notice of this petition has also been published in the newspapers in accordance with Section 64 of the Electricity Act, 2003. No suggestions or objections have been received from the general public in response to the aforesaid notices published in the newspapers by the Petitioner. Notice dated 14.1.2020 directing the beneficiaries/ Respondents to file reply in the matter was also published on Commission's website. Uttar Pradesh Power Corporation Ltd. ("UPPCL") i.e. the Respondent No.9 has filed its reply *vide* affidavit dated 13.3.2019 and BSES Rajdhani Power Ltd. ("BRPL") i.e. the Respondent No.12 has filed its reply *vide* affidavit dated 13.6.2019. The Respondents have raised issues like furnishing of supporting details of additional capitalisation, initial spares to be limited as per norms, license fee to be borne by Petitioner, Effective Tax Rate, claim of wage revision to be fully attributable to the Petitioner etc. The Petitioner has filed

its rejoinder to the reply filed by UPPCL and BRPL *vide* affidavits dated 31.1.2020. The above submissions have been discussed in relevant paragraphs of this order.

8. The hearing in this matter was held on 19.8.2020 and the order was reserved. The Petitioner was directed to submit certain information during the hearings held on 11.2.2020 and 19.8.2020 and the same were furnished by the Petitioner *vide* affidavits dated 20.3.2020 and 14.9.2020, respectively.

9. This order is issued considering the submissions made by the Petitioner in the petition dated 11.1.2019, rejoinders submitted by the Petitioner *vide* affidavits dated 31.1.2020 (2 nos.), 10.2.2020, 20.3.2020 and 14.9.2020 as also replies filed by UPPCL and BRPL *vide* affidavits dated 13.3.2019 and 13.6.2019 respectively.

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

Date of Commercial Operation (COD)

11. The Petitioner has claimed the actual COD for the instant asset, as per the following details:

S.N.	Name of Asset	COD claimed in petition	Claimed COD <i>vide</i> affidavit dated 10.2.2020
1	Asset I: +/-200 MVAR STATCOM at 400/220 kV Nalagarh Sub-station	1.2.2019 (Anticipated)	31.3.2019 (actual)

12. In support of COD of instant assets, the Petitioner has submitted CEA Energisation Certificate dated 11.3.2019 under Regulation 43 of CEA (measures relating to Safety and Electric Supply) Regulations, 2010, RLDC Certificate dated 22.8.2019 and CMD Certificate as required under grid code.

13. Taking into consideration the CEA Energisation Certificate, RLDC Certificate and CMD Certificate, the COD of Asset-I is approved as 31.3.2019.



Capital Cost

14. 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;

(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.”

15. The Petitioner vide affidavit dated 10.2.2020 has claimed capital cost and submitted Auditor's Certificate dated 23.11.2019 for Asset-I. The details of apportioned approved cost, capital cost as on COD and estimated additional capital expenditure incurred or projected to be incurred during 2019-20, 2020-21 and 2021-22 along with estimated completion cost as claimed by the Petitioner is as under:

(₹ in lakh)

Asset	Apportioned Approved Capital Cost (FR)	Expenditure up to COD	Projected Exp. for FY			Estimated Completion Cost
			2019-20	2020-21	2021-22	
Asset-I	18973.60	13253.43	1438.09	1438.09	719.05	16848.66

16. The Commission vide RoP of hearing dated 19.8.2020 directed the Petitioner to submit information regarding amount of grant from PSDF applied for and whether any grant from PSDF has been sanctioned/ committed/ received. In response, the



Petitioner *vide* affidavit dated 14.9.2020 submitted that there is no sanction of grant from PSDF in Asset-I.

Cost Over-run

17. The Petitioner has submitted that the estimated completion cost of Asset-I based on the Auditor's Certificate works out to ₹16848.66 lakh including IEDC & IDC and is within the approved apportioned FR cost of ₹18973.60 lakh. Hence, there is no cost overrun.

18. The Respondent, BRPL, has submitted that against the apportioned approved cost of ₹18973.60 lakh, the estimated completion cost of Asset-I is indicating huge savings. This is indicative of the fact that neither the estimation of the project nor the intra-element variations have been judged by the Petitioner.

19. In response, the Petitioner *vide* rejoinder dated 31.1.2020 has submitted that against the apportioned approved cost (FR) of ₹18973.60 lakh, the actual expenditure up to COD is ₹13253.43 lakh and estimated completion cost is ₹16848.66 lakh. Hence, there is no cost overrun. The reasons for item-wise cost variation between approved cost (FR) and estimated completion cost are explained in Form-5 and are mainly due to awarded price as received through open competitive bidding, decrease in actual taxes paid to the statutory authorities, decrease in IEDC and IDC. Further, with regard to the variation of FR cost vis-à-vis the actual cost, it has submitted that as per policy in PGCIL, the procurement is carried out under open competitive route by providing equal opportunity to all the eligible firms. The bid prices are invited for the complete scope of work on overall basis and the contracts are awarded to the qualified bidder, whose bid is determined as the lowest evaluated, techno-commercially responsive and, who is considered to have the capacity and capability to perform the contract based on the assessment, if carried out. Thus, the variation of



awarded/ actual cost may be because of various market forces and the pricing strategies followed by bidder(s).

20. We have considered the submissions of Petitioner and Respondent. Against the Apportioned Approved Cost (FR) of ₹18973.60 lakh, the actual expenditure up to COD is ₹13253.43 lakh and estimated completion cost is ₹16848.66 lakh. It is observed that there is reduction of about ₹1945 lakh as compared with FR cost. It is further observed that cost variation between approved cost (FR) and estimated completion cost are mainly due to awarded price as received through open competitive bidding, decrease in actual taxes paid to the statutory authorities, decrease in IEDC and IDC. Since, the estimated completion cost of the Asset-I is within the apportioned approved cost as per FR, there is no cost overrun. Accordingly, the cost variation of individual items is allowed.

21. Accordingly, the capital cost allowed as on COD, subject to scrutiny of IDC, IEDC and Initial Spares, is as follows:

(₹ in lakh)			
Asset	Apportioned Approved Cost (FR)	Expenditure up to COD	Capital Cost Allowed as on COD (subject to IDC, IEDC & Initial spares scrutiny)
I	18973.60	13253.43	13253.43

Time over-run

22. As per the Investment Approval dated 19.8.2016, the scheduled date of commercial operation of the asset was 30 months. Accordingly, the scheduled commercial operation date of the asset was 19.2.2019 against which Asset-I was put into commercial operation with delay as per following details:

Assets	Scheduled Date of Completion (SCOD)	COD (Actual)	Delay (in Days)
I	19.2.2019	31.3.2019	40



23. The Petitioner has submitted that the said delay is mainly attributable to unexpected heavy rainfall encountered at Nalagarh (Solan District) including other areas of Himachal Pradesh etc. The Petitioner has submitted the detailed reasons of time overrun as under:

(i) Unexpected heavy rainfall was encountered at Nalagarh (Solan District) including other areas of Himachal Pradesh during January, July, August & September, 2017 and July, August & September, 2018 which adversely affected progress of civil works, supply and erection work for installation of STATCOM at Nalagarh substation. Petitioner has enclosed the copy of Customized Rainfall Information (CRIS) report observed in Himachal Pradesh along with Newspaper cuttings of landslides and rainfall during the year 2017 and 2018 along with communication letters with the contractor and CPM/PERT chart.

(ii) Further, due to the Doklam issue between India and China between June 2017 to August 2017, the Chinese staff were not granted visa and most of the Chinese engineers left the Country, which led to further delay in execution of the asset.

(iii) Due to new technology used at Nalagarh STATCOM and due to hilly/ undulated geographical area, layout/ erection & commissioning works were very difficult.

(iv) Considerable time was lost in resolving RoW issues in the route of the instant transmission line, which was beyond control of the Petitioner.

24. The Commission vide RoP dated 11.2.2020 and 19.8.2020 directed the petitioner to submit details of time over-run and chronology of activities along with documentary evidence as per the format given. In response, the Petitioner vide affidavit dated 20.3.2020 has submitted details as under:

Asset-I	Period of activity				Time Overrun	Reasons for Time overrun
	Planned		Achieved			
	From	To	From	To		
Notice of Award	25.10.2016	25.10.2016	2.9.2016	2.9.2016	1 month	Delay in commissioning of Asset-I is mainly due to



Supply of Structure, equipment etc.	19.4.2017	28.11.2018	1.5.2017	15.1.2019	unexpected heavy rainfall encountered at Nalagarh (Solan District) including other areas of Himachal Pradesh during January, July, August & September, 2017 and July, August & September, 2018 which adversely affected progress of civil works, Supply and erection work for installation of STATCOM at Nalagarh Sub-station.
Civil works and erection	3.4.2017	28.1.2019	16.6.2017	8.3.2019	
Testing and Commissioning	29.1.2019	28.2.2019	8.3.2019	30.3.2019	

25. We have gone through the submissions of the Petitioner. As per the Investment Approval dated 19.8.2016, the scheduled commissioning date of the Project was 30 months. Accordingly, the scheduled commercial operation date of the Project was 19.2.2019 against which Asset-I was put into commercial operation w.e.f. 31.3.2019 with a delay of 40 days.

26. We observe that in support of its contention that time over-run occurred due to Doklam issue between India and China from June 2017 to August 2017 due to which the Chinese staff were not granted visa, new technology used at Nalagarh STATCOM, and time lost due to RoW issue, the Petitioner has not furnished any relevant documents or chronology of events during various periods which would establish that the Petitioner's work was hampered and consequently Petitioner could not carry out its work. Thus, in absence of any documents in support, we are not inclined to condone the time over-run on these factors.

27. Further, with regard to time over-run due to unexpected heavy rainfall encountered at Nalagarh (Solan District) including other areas of Himachal Pradesh during January, July, August and September, 2017 and July, August and September, 2018 which has been claimed to have adversely affected progress of civil works, supply and erection work for installation of STATCOM at Nalagarh Sub-station, we observe that the Petitioner has randomly submitted 3-4 newspaper cuttings which do



not prove that this event caused delay in work of the Petitioner. Also, the chronology of the rainfall (in mm), rain period, normalization period and total work stoppage is not clear. Considering these facts, we are not inclined to condone the time over-run of 40 days for the Asset as it is not for reasons beyond control of the Petitioner.

28. In view of the above deliberations, the time overrun not condoned in respect of instant asset is summarised as below:

Asset	SCOD	COD	Total Delay	Delay condoned	Delay not condoned
I	18.2.2019	31.3.2019	40 days	Nil	40 days

Interest During Construction (IDC)

29. The Petitioner has claimed Interest During Construction (IDC) for the instant assets and submitted the Auditor's Certificate dated 23.11.2019 *vide* affidavit dated 10.2.2020 for Asset-I in support of the same. The Petitioner has submitted computation of IDC along with the year-wise details of the IDC discharged.

30. The IDC has been allowed on cash basis considering the information submitted by the Petitioner for the Asset-I. The loan details submitted in Form-9C for the 2014-19 tariff period and the IDC computation sheet have been considered for the purpose of IDC calculation on cash and accrual basis. The un-discharged IDC as on COD has been considered as ACE during the year in which it has been discharged. Accordingly, the IDC considered is as under:

							(₹ in lakh)	
Asset	IDC as per Auditor's certificate	IDC Admissible	IDC disallowed due to time overrun/ Computational difference	IDC Discharged as on COD	IDC Un-discharged as on COD	IDC Discharged		
A	B	C	D=B-C	E	F=C-E	2018-19	2019-20	
Asset-I	352.93	299.04	53.89	274.01	25.03	0.00	25.03	



Incidental Expenditure During Construction (IEDC)

31. The Petitioner has claimed IEDC of ₹665.46 lakh for Asset-I and has submitted Auditor's certificate in support of the same. The Petitioner has also submitted that the entire IEDC has been discharged as on COD in respect of the instant asset. IEDC of ₹27.87 lakh has been disallowed on account of time overrun not condoned. Accordingly, IEDC of ₹637.59 lakh has been allowed.

32. IEDC allowed for the instant asset is subject to reconsideration 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 scope of the transmission project are put to commercial use and the actual quantum of IEDC is known.

Initial Spares

33. Regulation 13 of the 2014 Tariff Regulations specifies ceiling norms for capitalization of initial spares in respect of transmission system as under:-

"13. Initial Spares

Initial spares shall be capitalised as a percentage of the Plant and Machinery cost upto cut-off date, subject to following ceiling norms:

(d) Transmission system

(i) Transmission line - 1.00%

(ii) Transmission Sub-station (Green Field) - 4.00%

(iii) Transmission Sub-station (Brown Field) - 6.00%

(iv) Series Compensation devices and HVDC Station - 4.00%

(v) Gas Insulated Sub-station (GIS)-5.00%

(vi) Communication system-3.5%

Provided that:

(i) where the benchmark norms for initial spares have been published as part of the benchmark norms for capital cost by the Commission, such norms shall apply to the exclusion of the norms specified above:

(ii) -----



(iii) Once the transmission project is commissioned, the cost of initial spares shall be restricted on the basis of plant and machinery cost corresponding to the transmission project at the time of truing up:

(iv) for the purpose of computing the cost of initial spares, plant and machinery cost shall be considered as project cost as on cut-off date excluding IDC, IEDC, Land Cost and cost of civil works. The transmission licensee shall submit the breakup of head wise IDC & IEDC in its tariff application.”

34. The Petitioner has claimed initial spares of ₹1071.23 lakh for Asset-I and has submitted Auditor’s Certificate dated 23.11.2019 vide affidavit dated 10.2.2020, in support of the same. The Petitioner, vide affidavit dated 20.3.2020 and 14.9.2020, has submitted details of year-wise capitalisation and initial spares discharged up to COD. The Petitioner has further submitted that the expenditure incurred towards initial spares up to COD have been considered in COD cost. The amount towards balance initial spares liabilities have been considered in additional capital expenditure of the respective year and the Petitioner has prayed to allow the entire initial spares claimed under the instant petition. The details of initial spares claimed by the Petitioner is as follows:

(₹ in lakh)					
Asset	Particulars Head	Plant and Machinery Cost (excluding IDC and IEDC, land cost and cost of civil works) (A) (₹ in lakh)	Initial Spares claimed (B) (₹ in lakh)	Ceiling Limit claimed (C) (in %)	Initial Spares worked out by the Petitioner (₹ in lakh) (*)
I	Transmission Substation (Brown Field)	15698.06	1071.23	6.00	1071.23 * (6.83%)

(*) The Petitioner is seeking to invoke ‘Power to Relax’, under Regulation 54 of the 2014 Tariff Regulations.

35. The Respondent, UPPCL, vide reply dated 13.3.2019 has submitted that the initial spares may be sanctioned as provided in the 2014 Tariff Regulations for brown field substation. Further, the Respondent, BRPL vide reply dated 13.6.2019 has submitted that the initial spares claimed for Asset-I are beyond the limit as specified in the 2014 Tariff Regulations and, therefore, the initial spares may be limited within



the prescribed ceiling limit and strictly in accordance with Regulation 13 of the 2014 Tariff Regulations. The Petitioner is seeking to invoke 'Power to Relax' under Section 54 of the 2014 Tariff Regulations without filing any justification. Invoking 'Power to Relax' is a judicial discretion which cannot be exercised purely for profit motive and the same is liable to be rejected by the Commission.

36. In response, the Petitioner *vide* rejoinders dated 31.1.2020 has stated that the initial spares are under the brown field category. The spares procured are essential spares for smooth running of the grid and may be allowed by the Commission in exercise of powers under Regulation 54 of the 2014 Tariff Regulations that provides as under:

***“54. Power to Relax.** The Commission, for reasons to be recorded in writing, may relax any of the provisions of these regulations on its own motion or on an application made before it by an interested person.”*

37. We have considered the submissions made by the Petitioner and Respondents. The Petitioner has claimed initial spares in respect of the Asset-I under brown field sub-station. The Petitioner has taken approval for STATCOM as a separate element. The basic purpose of STATCOM is to provide compensation and as per Regulation 13(d)(iv) of the 2014 Tariff Regulations, the allowable ceiling for compensation devices is 4%. We find that the initial spares claimed by the Petitioner are higher than the ceiling as per the 2014 Tariff Regulations and, therefore, we restrict it to 4% as provided under Regulation 13(d)(iv) of the 2014 Tariff Regulations. We find no reason to invoke provisions of Regulation 54 of the 2014 Tariff Regulations.

38. The expenses incurred on initial spares up to COD have been considered in the COD cost. The amount towards balance initial spares liabilities shall be considered as part of additional capital expenditures beyond 2014-19 tariff period.



The initial spares allowed for the purpose of tariff of 2014-19 period, after considering the Plant and Machinery cost excluding IDC, IEDC and Land expenses are as under:

Asset	Element	Plant and Machinery Cost up to the cut-off date (excluding IDC and IEDC, land cost and cost of civil works) (₹ in lakh)	Initial spares claimed (₹ in lakh)	Norms as per the 2014 Tariff Regulations (%)	Initial spares allowed (₹ in lakh)
I	Transmission System- Series Compensation Devices	15698.06	1071.23	4.00	609.45

Capital cost as on COD

39. Capital cost allowed as on COD under Regulation 9(2) of the 2014 Tariff Regulations is summarized as under:

Asset	(₹ in lakh)					
	Capital Cost as on COD as per Auditor's Certificate	Less: IDC disallowed due to time overrun/ Computational difference	Less: IDC Un-discharged as on COD	Less: IEDC disallowed due to time overrun not condoned	Less: Excess/ un-discharged Initial Spares	Capital Cost considered as on COD
	1	2	3	4	5	6=1-2-3-4-5
I	13253.43	53.89	25.03	27.87	759.18	12387.46

Additional Capital Expenditure (ACE)

40. Clause (1) of Regulation 14 of the 2014 Tariff Regulations provides as under:

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

(i) Undischarged liabilities recognised to be payable at a future date;

(ii) Works deferred for execution;

(iii) Procurement of initial capital spares within the original scope of work, in accordance with the provisions of Regulation 13;

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

(v) Change in Law or compliance of any existing law:

Provided that the details of works asset wise/work wise included in the original scope of work along with estimates of expenditure, liabilities recognized to be payable at a future date and the works deferred for execution shall be submitted along with the application for determination of tariff.”

41. Clause (13) of Regulation 3 of the 2014 Tariff Regulations defines “cut-off” date as under:

“cut-off date” means 31st March of the year closing after two years of the year of commercial operation of whole or part of the project, and in case the whole or part of the project is declared under commercial operation in the last quarter of the year, the cut-off date shall be 31st March of the year closing after three years of the year of commercial operation”

42. The Petitioner has claimed following additional capitalisation for instant asset for 2014-19 tariff period and submitted Auditor’s Certificates in support of the same, as under:

Asset	Additional Capital Expenditure in FY				Total ACE
	2018-19	2019-20	2020-21	2021-22	
I	0.00	1438.09	1438.09	719.05	3595.23

43. The Respondent, UPPCL *vide* reply dated 13.3.2019 has submitted that no comment can be offered in respect of the additional capital expenditure until the Petitioner submits item-wise and year-wise liability flow statement. In response, the Petitioner *vide* rejoinder dated 31.1.2020, has submitted that Form-7 stating year-wise liability and Form-5 stating item-wise liability is already submitted along with the petition.

44. The Respondent, BRPL *vide* reply dated 13.6.2019 has submitted that the projected additional capital expenditure is claimed under Regulation 14(1)(i) of the 2014 Tariff Regulations and likely to go beyond tariff period 2014-19. As the projected additional capital expenditure is towards balance and retention payments, they have no comments to offer provided there is no accrual IDC under the projected additional capital expenditure. The Petitioner has not submitted any comments on the issue.

45. We have considered the submissions made by the Petitioner and the Respondents. As per Clause (13) of Regulation 3 of the 2014 Tariff Regulations, the cut-off date for Asset-I is 31.3.2022. The Petitioner has claimed ACE for the FY 2019-



20, 2020-21 & 2021-22 in respect of the Asset-I and submitted Auditor's certificate dated 23.11.2019 vide affidavit dated 10.2.2020 in support of the same. However, as FY 2019-20, 2020-21 and 2021-22 fall beyond the tariff period 2014-19 and are not covered under the 2014 Tariff Regulations, the same has not been taken into consideration for the purpose of tariff and shall be dealt during the next tariff period as per extant 2019 Tariff Regulations.

46. The Petitioner has claimed 'NIL' ACE for the year 2018-19 and also 'NIL' IDC and Initial spares has been discharged during 2018-19. Accordingly, 'NIL' Additional Capital Expenditure has been considered during 2018-19.

Capital cost for the tariff period 2014-19

47. Accordingly, the capital cost considered for the tariff period 2014-19, subject to truing up, is as follows:

(₹ in lakh)				
Asset	Apportioned Approved Cost (FR)	Capital Cost allowed as on COD	ACE allowed in 2018-19	Capital cost allowed as on 31.3.2019
1	18973.60	12387.46	0.00	12387.46

48. Based on the above, tariff in respect of Asset-I from COD to 31.3.2019 (Period of 1 day in FY 2018-19) is determined in subsequent paragraphs.

Debt-Equity Ratio

49. 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 may be admitted by the Commission as additional capital expenditure for determination of tariff, and renovation and modernisation expenditure for life extension shall be serviced in the manner specified in clause (1) of this regulation.”

50. The Petitioner has considered debt-equity ratio of 70:30 as on COD and for ACE post COD for Asset-I. The debt-equity ratio has been considered for capital cost as on COD and ACE during the 2014-19 tariff period as provided under Regulation 19 of the 2014 Tariff Regulations. The same has been summarised as under:-

	Capital Cost as on COD		Capital Cost as on 31.3.2019	
	Amount (₹ in lakh)	(%)	Amount (₹ in lakh)	(%)
Asset-I				
Debt	8671.22	70.00	8671.22	70.00
Equity	3716.24	30.00	3716.24	30.00
Total	12387.46	100.00	12387.46	100.00

Return on Equity (RoE)

51. Clauses (1) and (2) of Regulation 24 and Clause (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 kilo meters.

“25. Tax 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:

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

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

52. The Petitioner has submitted that RoE has been calculated at the rate of 19.61% after grossing up RoE with MAT rate of 20.961% as per provisions of Regulations 24 and 25 of the 2014 Tariff Regulations. The Petitioner has further



submitted that the grossed- up RoE is subject to truing up based on the effective tax rate of respective financial year applicable to the Petitioner Company.

53. The Respondent, BRPL *vide* reply dated 13.6.2019 has submitted regarding 'Effective Tax Rate' as under:

a) The Petitioner has not mentioned the effective tax rate in Form 3 for each year of tariff period. The effective tax rate is required to be computed in accordance with Regulation 25 of the 2014 Tariff Regulations. The Petitioner may be directed to furnish complete details in the working of effective tax rate along with tax audit report for financial year 2014-15.

b) This is a new transmission project and is also entitled for Tax Holiday under Section 80IA of the Income Tax Act, 1961. The benefit under this section at the option of the Petitioner can be claimed for any ten consecutive assessment years out of the fifteen years beginning from the year in which the enterprise begins to generate power. It is, thus, necessary that the Petitioner is directed by the Commission supply the information at least the date from which it intends to claim the benefits of Section 80 IA of the Income Tax Act, 1961?

54. In response, the Petitioner *vide* rejoinder dated 31.1.2020 has submitted that the Petitioner is availing tax benefits under provisions of section 80IA of Income Tax Act, 1961 for computing normal income tax. However, under Section 115JB of Income Tax Act, 1961, it is liable for payment of Minimum Alternate Tax (MAT) @18.5% plus Surcharge and Cess as applicable. As per Regulation 25(3) of the 2014 Tariff Regulations, any over/ under recovery of grossed up rate on RoE shall be adjusted at the time of truing up on the basis of actual tax paid including interest and additional demand, if any, by the IT authorities. Audit report shall be submitted on completion of assessment and the same shall be taken care of while filing truing up. Further, as per clause 49 of the 2014 Tariff Regulations, the deferred tax liability before 1.4.2009 shall be recovered from the beneficiaries or the long term transmission customers/ DICs as



the case may be, as and when the same gets materialized. As the present asset has achieved commercial operation under 2014-19 period, the same is not applicable.

55. We have considered the submissions of the Petitioner and Respondent. Regulation 24 read with Regulation 25 of the 2014 Tariff Regulations provides for grossing up of return on equity with the effective tax rate for the purpose of return on equity. It further provides that in case the generating company or transmission licensee is paying Minimum Alternative Tax (MAT), the MAT rate including surcharge and cess will be considered for the grossing up of return on equity. Accordingly, the MAT rate of 21.549%, applicable during 2018-19 has been considered for the purpose of return on equity, which shall be trued up with actual tax rate in accordance with Regulation 25(3) of the 2014 Tariff Regulations.

56. Accordingly, the ROE allowed is as follows:

Particulars	(₹ in lakh)
	Asset-I 2018-19 (Pro-rata) One day
Net Opening Equity	3716.24
Increase in Equity due to addition during the year	0.00
Closing Equity	3716.24
Average Equity	3716.24
Return on Equity (Base Rate) (%)	15.50%
Tax Rate applicable (%)	21.5488%
Applicable ROE Rate (%)	19.758%
Return on Equity for the year	2.01

Interest on Loan (IoL)

57. 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 up to 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.”

58. The Petitioner has submitted that IoL has been claimed on the basis of rate prevailing as on COD and the change in interest due to floating rate of interest applicable, if any, needs to be claimed/ adjusted over the tariff period 2014-19.

59. We have considered the submissions of the Petitioner. IoL has been calculated as per the provisions of Regulation 26 of the 2014 Tariff Regulations as detailed below:

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

60. Interest on loan has been worked out on the basis of rate prevailing as on the date of commercial operation. Any change in rate of interest subsequent to the date of commercial operation will be considered at the time of truing-up. IoL is allowed considering all the loans submitted in Form-9C. The Petitioner is directed to reconcile the loans utilised for the calculation of weighted average Rate of Interest and for the calculation of IDC, which would be reviewed at the time of truing-up.



61. The details of IoL allowed for the instant transmission assets are as follows:-

Particulars	(₹ in lakh)
	Asset-I 2018-19 (Pro-rata) One day
Gross Normative Loan	8671.22
Cumulative Repayment upto previous Year	0.00
Net Loan-Opening	8671.22
Addition due to ACE	0.00
Repayment during the year	1.79
Net Loan-Closing	8669.43
Average Loan	8670.33
Weighted Average Rate of Interest on Loan (%)	8.2897%
Interest on Loan	1.97

Depreciation

62. Regulation 27 of the 2014 Tariff Regulations with regard to depreciation specifies 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.

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 up to 31.3.2014 from the gross depreciable value of the assets.”

63. Depreciation has been dealt with in line of Regulation 27 of 2014 Tariff Regulations. The instant asset was put under commercial operation during 2018-19. Accordingly, it will complete 12 years beyond the tariff period 2014-19, the life of the Asset being 25 years. The Gross Block during 2018-19 has been depreciated at weighted average rate of depreciation (WAROD) (as placed in Annexure-1). WAROD has been worked out after taking into account the depreciation rates of assets as prescribed in the 2014 Tariff Regulations and depreciation allowed during the 2018-19 is as under:

Particulars	(₹ in lakh)
	Asset-I 2018-19 (pro-rata) One day
Opening Gross Block	12387.46
Additional Capitalisation	0.00
Closing Gross Block	12387.46
Average Gross Block	12387.46
Freehold Land	0.00
Weighted Average Rate of Depreciation (WAROD) (%)	5.2800
Balance useful life of the asset at the beginning of the year	25
Aggregated Depreciable Value	11148.71
Combined Depreciation during the Year	1.79
Remaining Aggregate Depreciable Value at the end of year	11148.71.

Operation and Maintenance Expenses (O&M Expenses)

64. The Petitioner has claimed the O&M expenses for instant asset as follows:



(₹ in lakh)		
Asset	Particulars	2018-19 (pro-rata)
I	O&M Expenses	0.38

65. The Petitioner in the instant petition has submitted that O&M expense rates for the tariff period 2014-19 had been arrived on the basis of normalized actual O&M Expenses during the period 2008-09 to 2012-13. The Petitioner has further submitted that the wage revision of the employees is due during 2014-19 and actual impact of wage hike effective from a future date has not been factored in fixation of the normative O&M rates specified for the tariff block 2014-19. The Petitioner has submitted that it would approach the Commission for suitable revision in norms for O&M Expenses for claiming the impact of wage hike during 2014-19, if any.

66. The Respondent, BRPL *vide* reply dated 13.6.2019 has submitted that the increase in the employee cost, if any, due to wage revision must be taken care by improvement in their productivity levels by the Petitioner company so that the beneficiaries are not unduly burdened over and above the provisions made in the Tariff Regulations, 2014. In response, the Petitioner has submitted that the wage revision of the employees of the Petitioner company is due w.e.f. 1.1.2017 and actual impact of wage hike which will be effective from future date has also not been factored in fixation of the normative O&M rates prescribed for the tariff block 2014-19. The scheme of wage revision applicable to CPSUs being binding on the Petitioner, the Petitioner reserves the right to approach the Commission for suitable revision in the norms for O&M expenditure for claiming the impact of wage hike from 1.1.2017 onwards.

67. We have considered the submission of the Petitioner and Respondent BRPL. The O&M Expenses have been worked out as per the norms specified in the 2014



Tariff Regulations. As regards the impact of wage revision, any application filed by the Petitioner in this regard will be dealt with in accordance with the appropriate provisions of the 2014 Tariff Regulations.

68. Norms for O&M expenditure for Transmission System have been specified under section 29 (4) of Tariff Regulation are as follows:

Element	2018-19
400 kV bays – (Rs. Lakh/bays)	68.71

69. Accordingly, the allowed O&M Expenses is given below:

Asset-I	Element	(₹ in lakh)
		2018-19 (pro-rata) one day
+/-200 MVAR STATCOM at 400/220 kV Nalagarh Sub-station	2 nos. of 400 kV bay	0.36
Total O&M Expenses Allowed		0.36

Interest on Working Capital (IWC)

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

“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 72 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;”

71. As per the 2014 Tariff Regulations the components of the working capital and the interest thereon are discussed hereinafter:



a) Maintenance spares:

Maintenance spares @ 15% Operation and maintenance expenses specified in Regulation 29.

b) O & M expenses:

Operation and maintenance expenses have been considered for one month of the O&M expenses.

c) Receivables:

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

d) Rate of interest on working capital:

As per Clause 28 (3) of the 2014 Tariff Regulations, SBI Base Rate as on 1.4.2018 (8.70%) plus 350 bps i.e. 12.20% has been considered as the rate of interest on working capital.

72. Accordingly, the interest on working capital is summarized as under:

Particulars	(₹ in lakh)
	Asset-I
	2018-19 (Pro-rata)- One day
Maintenance Spares	19.71
O&M Expenses	10.95
Receivables	381.46
Total	412.12
Rate of Interest (%)	12.20
Interest on working Capital	0.14

Annual Transmission charges

73. Accordingly, the Annual Transmission Charges being allowed for the instant asset is as under:

Particulars	(₹ in lakh)
	Asset-I
	2018-19 (Pro-rata)- One day
Depreciation	1.79
Interest on Loan	1.97
Return on Equity	2.01
Interest on Working Capital	0.14
O&M Expenses	0.36
Total	6.27

Filing fee and the publication expenses



74. The Petitioner has sought reimbursement of fee paid by it for filing the petition and publication expenses in terms of Regulation 52 of the 2014 Tariff Regulations. The Petitioner shall be entitled for reimbursement of the filing fees and publication expenses in connection with the present petition, directly from the beneficiaries on pro-rata basis in accordance with clause (1) of Regulation 52 of the 2014 Tariff Regulations.

License fee and RLDC Fees and Charges

75. The Petitioner has requested to allow to bill and recover License fee and RLDC fees and charges, separately from the Respondents, in terms of Regulation 52 of the 2014 Tariff Regulations. Whereas, the Respondent, UPPCL, has submitted that the license fee is the onus of the Petitioner.

76. We have considered the submissions of Petitioner and Respondent. The Petitioner shall be entitled for reimbursement of license fee and RLDC fees and charges in accordance with Clause (2)(b) and (2)(a) of Regulation 52 in the 2014 Tariff Regulations.

Goods and Services Tax

77. The Petitioner has prayed for reimbursement of tax, if any, on account of implementation of GST. GST is not levied on transmission service at present and we are of the view that Petitioner's prayer is premature.

Analysis for Transmission Service Agreement (TSA):

78. The Respondent, BRPL *vide* affidavit dated 13.6.2019 has submitted that the Petitioner in this case has not filed the 'Transmission service Agreement' between the transmission licensee and the designated inter-State customers as per provisions of Regulation 3(63) of the 2014 Tariff Regulations. The discussions at the NRPC meetings cited by the Petitioner cannot be treated as the 'Transmission service Agreement' under Regulation 3(63) of the 2014 Tariff Regulations as these bodies



are statutorily not empowered to approve the Transmission Service Agreement nor all the Discoms who are expected to pay for such tariff are its members. The Petitioner may be directed to file the 'Transmission service Agreement' as per provisions of Regulation 3(63) of the 2014 Tariff Regulations.

79. In response, the Petitioner *vide* its rejoinder dated 31.1.2020 has replied to BRPL's observations and has also submitted a copy of the Model TSA dated 19.8.2011 entered into between the Petitioner and BRPL.

80. We have considered the submissions of the Petitioner and BRPL. The Commission has already dealt with the issue of TSA raised by BRPL in order dated 19.9.2018 in Petition No.206/TT/2017. The relevant portion of the order dated 19.9.2018 is as follows:

"17. As regards TSA, BRPL has submitted that as per Regulation 3(63) of the 2014 Tariff Regulations, TSA means the agreement between transmission licensee and designated inter-State transmission customers in accordance with the Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010 (hereinafter referred to as the "2010 Sharing Regulations") and any other agreement between the transmission licensee and the long term transmission customer where the payment of transmission charges is not made through PoC mechanism under the 2010 Sharing Regulations. BRPL has submitted that accordingly, there is need to enter into another agreement for recovery of the transmission charges through PoC mechanism. In response, the Petitioner has submitted that the Petitioner has complied with the provisions of 2010 Sharing Regulations and the terms of the model TSA entered into with the designated customers including BRPL.

18. We have considered the submissions of the Petitioner and Respondent (BRPL). As per Regulation 2(u) of the 2010 Sharing Regulations, TSA means an agreement to be entered into between the designated ISTS customers and ISTS licensee in terms of the said Regulation. Regulation 2(u) provides as under:-

(u) Transmission Service Agreement (TSA) shall mean the agreement to be entered into between the Designated ISTS Customer(s) and ISTS Licensee(s) in terms of Chapter 6;

As per Regulation 13 of the 2010 Sharing Regulations, the designated ISTS customers and the CTU have to enter into new TSA or modify the existing BPTA to incorporate the new tariff and related conditions and it shall govern the provisions of transmission services and the charges for the same and the agreement be called TSA. Further, as per the said Regulation, the CTU shall notify a model TSA and it shall be the default transmission agreement and shall mandatorily apply to all the designated ISTS customers. The relevant provisions of Regulation 13 of the 2010 Sharing Regulations are as under:-

(1) The Designated ISTS Customers and the CTU shall enter into new transmission



services agreement or modify the existing Bulk Power Transmission Agreements to incorporate the new tariff and related conditions. Such agreement shall govern the provision of transmission services and charging for the same and shall be called the Transmission Service Agreement (TSA) and shall, inter alia, provide for:

(4) The final version of the Model Transmission Service Agreement, as approved by the Commission shall be notified and used as the base transmission service agreement by the ISTS Licensees.

(5) The notified Model Transmission Service Agreement shall be the default transmission agreement and shall mandatorily apply to all Designated ISTS Customers.

Accordingly, the petitioner and all the DICs entered into model TSA and the petitioner signed the model TSA with BRPL on 19.8.2011. As per clause 4 of the model TSA, the existing ISTS owned, operated and maintained by it are given in Schedule II of the model TSA. Any new ISTS, on approval of the concerned RPC, shall be intimated to the DICs and shall become part of Schedule-II of the TSA. Clause 4 of the TSA provides as follows:-

4.0 Description of inter-State Transmission System (ISTS)

4.1 Existing ISTS

4.1.1 The list of ISTS presently owned, operated and maintained by ISTS Licensees in the country is detailed in Schedule - II.

4.2 Deemed ISTS

4.2.1 The provisions of this Agreement shall be applicable to Deemed ISTS, as detailed in **Schedule – II**.

4.2.2 Any additions/ deletions to the existing list as certified by the RPCs and approved by the Commission shall be intimated to the DICs by the Regional Power Committee (RPC). Such modifications shall form part of **Schedule - II** of this Agreement and shall be governed by the terms and conditions contained herein.

4.3 New ISTS Schemes

4.3.1 New ISTS Schemes shall be as identified in consultation with the stakeholders, by CEA and CTU.

4.3.2 Any element that may be added to the ISTS detailed in Article 4.1.1 and declared for commercial operation by the concerned ISTS Licensee will be intimated to the DICs by the ISTS Licensee or the CTU, as and when these are declared under commercial operation. Such addition shall form a part of Schedule - II of this Agreement and shall be governed by the terms and conditions as contained herein.

4.3.3 CTU shall notify all the ISTS Licensees and the DICs, as and when such element, as mentioned in Article 4.3.2 comes into operation.

The petitioner has submitted that the DICs are intimated about the COD of the new ISTS and are included in the Scheduled II of the TSA. The petitioner has submitted that the TSA is posted on the petitioner's website and has also submitted a copy of the same. It is observed that the petitioner has entered into a TSA as required under the provisions of 2010 Sharing Regulations and has complied with the requirement of the TSA by including the new ISTS in Schedule-II of the TSA."

81. Accordingly, we observe that the Petitioner has complied with the 2010 Sharing Regulations by entering into a TSA with BRPL and has also complied with the requirement of the TSA.



Sharing of Transmission Charges

82. The billing, collection and disbursement of the transmission charges approved in this order shall be governed by the provisions of Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010, as amended from time to time as provided in Regulation 43 of 2014 Tariff Regulation.

83. This order disposes of Petition No. 85/TT/2019.

Sd/-
(Arun Goyal)
Member

Sd/-
(I. S. Jha)
Member

Sd/-
(P. K. Pujari)
Chairperson



**DETAILS OF WEIGHTED AVERAGE RATE OF DEPRECIATION (WAROD)
FOR THE 2014-19 TARIFF PERIOD**

Asset-I

Asset-I (2014-19)	Admitted Capital Cost as on 1.4.2014	Projected Additional Capitalisation during tariff period 2014-19	Admitted Capital Cost as on 31.3.2019	Rate of Depreciation as per Regulations	Annual Depreciation as per Regulations					
					2014-15	2015-16	2016-17	2017-18	2018-19	
Capital Expenditure										
Land-Freehold	0.00	0.00	0.00	0.00%	-	-	-	-	-	0.00
Land-Lease hold	0.00	0.00	0.00	3.34%	-	-	-	-	-	0.00
Building, Civil Works & Colony	0.00	0.00	0.00	3.34%	-	-	-	-	-	0.00
Transmission Line	0.00	0.00	0.00	5.28%	-	-	-	-	-	0.00
Substation	12402.81	0.00	12402.81	5.28%	-	-	-	-	-	654.87
PLCC	0.00	0.00	0.00	6.33%	-	-	-	-	-	0.00
IT Equipment (Incl. Software)	0.00	0.00	0.00	15.00%	-	-	-	-	-	0.00
Total	12598.35	0.00	12402.81	Total	-	-	-	-	-	654.87
Average Gross Block (₹ in lakh)					-	-	-	-	-	12402.81
Weighted Average Rate of Depreciation (WAROD)					-	-	-	-	-	5.2800%