

**CENTRAL ELECTRICITY REGULATORY COMMISSION**

**NEW DELHI**

**Review Petition No. 2/RP/2022**

**in**

**Petition No. 468/TT/2020**

**Coram:**

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

**Date of Order: 10.11.2022**

**In the matter of:**

Review Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103(1) of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and order 47 Rule 1 of the Code of Civil Procedure, 1908, seeking review and modification of the order dated 19.8.2021 in Petition No. 468/TT/2020.

**And in the Matter of:**

Power Grid Corporation of India Limited,  
“Saudamini”, Plot No. 2,  
Sector 29, Gurgaon-122001, Haryana.

**....Review Petitioner**

**Vs.**

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



4. Jodhpur Vidyut Vitran Nigam Limited,  
132 kV, GSS RVPNL Sub-Station Building,  
Caligiri Road, Malviya Nagar,  
Jaipur, Rajasthan - 302017.
5. Himachal Pradesh State Electricity Board,  
Vidyut Bhawan, Kumar House Complex,  
Building II, Shimla, Himachal Pradesh-171004.
6. Punjab State Power Corporation Limited,  
(formerly known as Punjab State Electricity Board),  
Thermal Shed Tia, Near 22 Phatak,  
Patiala, Punjab - 147001.
7. Haryana Power Purchase Centre,  
Shakti Bhawan, Sector-6,  
Panchkula, Haryana - 134109.
8. Power Development Department,  
Government of Jammu & Kashmir,  
Mini Secretariat, Jammu - 180001.
9. Uttar Pradesh Power Corporation Limited,  
(Formerly Uttar Pradesh State Electricity Board),  
Shakti Bhawan, 14, Ashok Marg,  
Lucknow, Uttar Pradesh - 226001.
10. Delhi Transco Limited,  
Shakti Sadan, Kotla Road,  
New Delhi - 110002.
11. BSES Yamuna Power Limited,  
B-Block, 2nd Floor,  
Shakti Kiran Building,  
Karkadooma, New Delhi - 110092.
12. BSES Rajdhani Power Limited,  
BSES Bhawan, Nehru Place,  
New Delhi - 110019.
13. Tata Power Delhi Distribution Limited,  
NDPL House, Hudson Lines,  
Kingsway Camp,  
Delhi - 110009.



14. Chandigarh Administration,  
Sector - 9, Chandigarh - 160009.
15. Uttarakhand Power Corporation Limited,  
Urja Bhawan, Kanwali Road,  
Dehradun, Uttarakhand - 248001.
16. North Central Railways,  
Subedarganj, Prayagraj - 211011.
17. New Delhi Municipal Council,  
Palika Kendra, Sansad Marg,  
New Delhi - 110002.

...Respondents

**For Review Petitioner** : Shri M.G. Ramachandran, Sr. Advocate, PGCIL  
Shri Shubham Arya, Advocate, PGCIL  
Ms. Poorva Saigal, Advocate, PGCIL  
Shri Ravi Nair, Advocate, PGCIL  
Shri Nipun Dave, Advocate, PGCIL  
Ms. Reeha Singh, Advocate, PGCIL  
Ms. Supriya Singh, PGCIL  
Shri V.C. Sekhar, PGCIL  
Shri Ved Prakash Rastogi, PGCIL  
Shri Akshay Kumar Verma, PGCIL

**For Respondents** : None

### **ORDER**

Power Grid Corporation of India Limited (hereinafter referred to as “PGCIL/Review Petitioner) has filed the instant review petition seeking review and modification of the order dated 19.8.2021 in Petition No. 468/TT/2020 under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103(1) of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 wherein the tariff for 2014-19 tariff period was trued up under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as “the 2014 Tariff Regulations”) and



tariff of 2019-24 tariff period was determined under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (hereinafter referred to as “the 2019 Tariff Regulations”) in respect of the following assets under “Static VAR Compensator (SVCs)” in Northern Region (hereinafter referred to as “the transmission scheme”):

**Asset-I:** 400/220 kV Ludhiana Sub-station: (+) 600 MVAR/ (-) 400 MVAR SVC;

**Asset-II:** 400/220 kV Kankroli Sub-station: (+) 400 MVAR/ (-) 300 MVAR SVC; and

**Asset-III:** 400/220 kV New Wanpoh Sub-station: (+) 300 MVAR / (-) 200 MVAR SVC (hereinafter referred to as “transmission assets”)

2. The Review Petitioner has submitted that in the impugned order, for the purpose of O&M Expenses, the Commission has considered the capital cost only upto the date of commercial operation (COD). However, in a similar case, in order dated 18.10.2021 in Petition No. 658/TT/2020, the Commission has allowed O&M Expenses considering the capital cost upto the cut-off date including Additional Capital Expenditure (ACE) but excluding IDC and IEDC. Further, the Commission has deducted an IDC of ₹9.88 lakh with respect to computational difference in IDC on COD. However, as per the IDC statement submitted along with the petition, the calculation difference of IDC is only ₹7.99 lakh.

3. The Review Petitioner has made the following prayers in the Review Petition:

*“a. Admit the Review Petition;*

*b. Rectify and modify the Order dated 19.8.2021 passed in Petition No. 468/TT/2020 to the extent stated in the present Review Petition permitting the Review Petitioner to claim O&M expenditure on project cost as claimed;*



c. Rectify and modify the Order dated 19.08.2021 to the extent stated in the Review Petition in regard to the calculation of Interest During Construction; and

d. pass any such further order or orders as this Hon'ble Commission may deem just and proper in the circumstances of the case.”

4. The matter was heard through video conference and was admitted on 29.3.2022. Notice was issued to the Respondents. However, none of the Respondents entered appearance nor filed any reply in the matter. Subsequently, the matter was heard through video conference on 24.6.2022 and order was reserved after hearing the Petitioner.

#### **Submissions of the Review Petitioner**

5. The Review Petitioner has submitted following in support of the instant review petition:

- a. The Review Petitioner claimed the O&M Expenses for the transmission assets in Petition No. 468/TT/2020 on the basis of actual project cost, whose details are recorded in paragraph no. 112 of the order dated 19.8.2021 and the same is as follows:

*“112. The Petitioner has claimed the following O&M Expenses for Combined Asset for the 2019-24 tariff period:*

<i>Combined Asset</i>					
<i>Particulars</i>	<i>2019-20</i>	<i>2020-21</i>	<i>2021-22</i>	<i>2022-23</i>	<i>2023-24</i>
<i>SVC</i>					
<i>Original project cost as on 31.03.2019 (in lakh)</i>	<i>56490.54</i>	<i>56490.54</i>	<i>56490.54</i>	<i>56490.54</i>	<i>56490.54</i>
<i>Norm Rate (%) of O&amp;M</i>					
<i>SVC</i>	<i>1.5000</i>	<i>1.5527</i>	<i>1.6071</i>	<i>1.6636</i>	<i>1.7219</i>
<i>Total O&amp;M expenses</i>	<i>847.36</i>	<i>877.13</i>	<i>907.86</i>	<i>939.78</i>	<i>972.71</i>

“



- b. The Commission in the impugned order has restricted the O&M Expenses to the percentage of the capital cost on cash basis as on COD of the transmission assets, i.e. 1.5% amounting to ₹36089.42 lakh. The relevant portion of the order dated 19.8.2021 is extracted hereunder:

*“113. We have considered the submissions of the Petitioner. The Petitioner has considered the capital cost as on 31.3.2019 for claiming the O&M Expenses for the instant assets which are SVCs. However, as per Regulation 35(3)(v) of the 2019 Tariff Regulations, the O&M Expenses for the SVCs shall be worked out @1.5% of original project cost as on the date of commercial operation which shall be escalated at the rate of 3.51% to work out the O&M Expenses during the tariff period. In accordance with Regulation 35(3)(v) of the 2019 Tariff Regulations, 1.5% of the capital cost as on the COD has been considered for working out the O&M Expenses of instant SVCs, which is escalated at the rate of 3.51% for the 2019-24 tariff period.*

*114. Accordingly, the O&M Expenses allowed in accordance with Regulation 35(3)(v) of the 2019 Tariff Regulations considering combined capital cost as on 31.3.2019 for Combined Asset are as follows:*

*(₹ in lakh)*

<i>Combined Asset</i>					
<i>Particulars</i>	<i>2019-20</i>	<i>2020-21</i>	<i>2021-22</i>	<i>2022-23</i>	<i>2023-24</i>
<i>SVC</i>					
<i>Original project cost as on COD (₹ in lakh)</i>	<i>36089.42</i>	<i>36089.42</i>	<i>36089.42</i>	<i>36089.42</i>	<i>36089.42</i>
<i>Norm Rate (%) of O&amp;M</i>					
<i>SVC</i>	<i>1.5000</i>	<i>1.5527</i>	<i>1.6071</i>	<i>1.6636</i>	<i>1.7219</i>
<i>Total O&amp;M Expenses</i>	<i>541.34</i>	<i>560.36</i>	<i>579.99</i>	<i>600.38</i>	<i>621.42</i>

- c. As per Regulation 35(3)(vi) of the 2019 Tariff Regulations, O&M Expenses are to be allowed @1.5% of the 'original project cost as on commercial



operation'. The term 'original project cost' is defined in Regulation 3(46) of the 2019 Tariff Regulations as the capital expenditure within the original scope of the project up to the cut-off date and it is as follows:

*“(46) ‘Original Project Cost’ means the capital expenditure incurred by the generating company or the transmission licensee, as the case may be, within the original scope of the project up to the cut-off date, and as admitted by the Commission;”*

- d. Therefore, in terms of Regulation 3(46) of the 2019 Tariff Regulations, the actual project cost as on 31.3.2019 (36 months from the COD of the transmission scheme i.e. 30.12.2017) is ₹56490.54. The phrase '*original project cost as on commercial operation*' as applied in Regulation 35(3)(vi) of the 2019 Tariff Regulations has to be given a purposive and contextual meaning. The said provision provides the basis for computation of applicable O&M Expenses during the operation period, namely, from the COD, therefore, it has to necessarily relate to the transmission assets which are within the scope of original project cost as on commercial operation. It only excludes the additional capitalization or project cost that may be incurred beyond or over and above the original scope of work. The expression '*original project cost as on commercial operation*' cannot be interpreted in a strict sense to mean as capital expenditure in cash incurred up to the COD and to exclude the assets which are part of the original scope of work but capital expenditure in respect of them is incurred after the COD as per Regulation 24(1) of the 2019 Tariff Regulations and deeming provision of 'expenditure incurred' as contained in Regulation 3(23) of the 2019 Tariff Regulations. The term 'Original Project Cost' covers the capital expenditure within the original scope of the Project up to the cut-off date as admitted by the Commission.
- e. Wherever the 2019 Tariff Regulations uses the phrase 'expenditure incurred', it has to be interpreted with the deeming provision contained in



Regulation 3(23) of the 2019 Tariff Regulations, namely, where the equity or debt or both are actually deployed and paid in cash or cash equivalent. But for the deeming provision, the expenditure incurred also would have been considered as per the mercantile system of accounting. The Review Petitioner referred to the APTEL's judgement dated 10.12.2008 in Appeal Nos. 151 and 152 of 2007 in *NTPC Limited v. Central Electricity Regulatory Commission & Others* which was upheld by the Hon'ble Supreme Court in its order dated 10.4.2018 in Civil Appeal No. 4112-13 of 2009 in the matter of *Central Electricity Regulatory Commission v. NTPC Limited & Others*.

- f. Regulation 35(3)(vi) of the 2019 Tariff Regulations does not use the expression 'expenditure incurred', and accordingly, the original project cost as on COD has to be given a commercial meaning. There is, therefore, no basis for excluding the project cost of assets which are available and put to use as on the COD only on account of factors such as undischarged liabilities etc. or some part of the cost will be capitalised after the COD.
- g. Any interpretation to the contrary will lead to anomalous and unintended results. The Review Petitioner will suffer substantially if part of the original project cost is excluded only on the ground that it was not capitalized as on the date of commercial operation. The Regulation 24 and Regulation 25 of the 2019 Tariff Regulations envisage the discharge of the expenditure incurred after the COD on account of (a) undischarged liabilities recognised to be payable at a future date; and (b) liability to meet award of arbitration which may relate to works undertaken before COD.
- h. In the present case, the entire SVC works was completed by the COD. The actual discharge of liability, however, was subsequent to the COD and therefore, it is being claimed in the subsequent tariff period. The Review Petitioner is required to maintain the entire asset from the COD though part of the value of assets capitalized after the COD on account of





undischarged/deferred liabilities etc. Further, the determination of O&M Expenses as percentage of project cost is for the entire control period and may also be continued in the subsequent control periods. It cannot be said that the requirement of O&M Expenses to operate and maintain the SVC assets can be different between a situation where the entire value is capitalized as on COD and where part of the value is capitalized subsequent to COD.

- i. In the present case, as per the Auditor's Certificate, out of total capital cost of ₹56490.54 lakh, cost of the transmission assets as on COD is ₹36705.99 lakh and ACE is ₹19784.55 lakh. The entire cost pertains to the capital expenditure of assets within the original scope of work. However, the Commission has allowed the O&M Expenses as per the capitalised cost as on the COD allowed in the tariff order. The difference between ₹56490.54 lakh as claimed and ₹36089.42 lakh as allowed by the Commission for 2019-20 is on account of the discharged liabilities and deductions done with respect to accrued IDC as on COD and difference in IDC calculation. Computation of the O&M Expenses by way of percentage of capital cost should not vary on account of undischarged liabilities, deductions with respect to accrued IDC as on COD and difference in IDC calculation.
- j. In terms of the 2019 Tariff Regulations and considering the need to base the O&M Expenses on SVC to the cost of SVC as per the original scope of work, it will be appropriate to consider the entire cost incurred and not to restrict to the cost as on COD. There cannot be a differential treatment in so far as O&M Expenses based on capital cost within the original scope of work with regard to discharge of liabilities by payment to the vendors/contractors etc., whether it is before the COD or after the COD but within the time allowed in Regulation 24 of the 2019 Tariff Regulations.



- k. Further, the Commission has deducted the IDC of ₹9.88 lakh due to computational difference in IDC on COD. However, as per the IDC statement submitted along with the Petition No. 468/TT/2020, the calculation difference of IDC is only ₹7.99 lakh, which is as follows:

(₹ in lakh)

Asset	IDC on COD	Accrued IDC discharged after COD	Loan portion (70%) of ACE	Computational difference as per IDC statement submitted in the petition (A)	Computational difference as per Commission (B)	Difference (B-A)
Asset-I	611.14	210.91	147.64	2.14	1.74	(0.4)
Asset-II	214.7	214.7	150.29	5.35	5.10	(0.25)
Asset-III	186.78	186.78	130.75	0.50	3.04	2.54
<b>Total</b>				<b>7.99</b>	<b>9.88</b>	<b>1.89</b>

- l. Therefore, the Commission may review and modify the order dated 19.8.2021. The present case is an appropriate case where the Commission is to exercise the power to relax/ power to remove difficulties considering the facts and circumstances and to protect the interest of the utilities such as the Petitioner. The Commission has, in similar circumstances, exercised such power of relaxation in Petition No. 658/TT/2020 decided on 18.10.2021.

### **Analysis and Decision**

6. We have considered the submissions of the Review Petitioner and have perused the record. The Review Petitioner has sought the review of the order dated 19.8.2021 in Petition No. 468/TT/2020 on the following two grounds, (a) the Commission has wrongly



deducted IDC of ₹9.88 lakh due to computational difference in IDC as on COD instead of ₹7.99 lakh submitted by the Petitioner and (b) restriction of the O&M Expenses for 2019-24 period to percentage of the capital cost on cash basis as on the COD of the transmission assets instead of the capital cost upto cut-off date, which as per the Review Petitioner are errors apparent on the face of record.

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

7. The Review Petitioner has contended that the Commission in order dated 19.8.2021 in Petition No. 468/TT/2020 has wrongly deducted IDC of ₹9.88 lakh on account of computational difference in IDC claimed on COD. However, as per the submissions made by the Review Petitioner, the difference is only of ₹7.99 lakh. The calculation submitted by the Review Petitioner in support of its contention in the instant petition is as follows:

(₹ in lakh)						
Assets	IDC on COD	Accrued IDC discharged after DOC	Loan portion (70%) of ACE	Computational difference as per IDC statement submitted in Petition (A)	Computational difference as per Commission (B)	Difference (B-A)
Asset-I	611.14	210.91	147.64	2.14	1.74	(0.4)
Asset-II	214.7	214.7	150.29	5.35	5.10	(0.25)
Asset-III	186.78	186.78	130.75	0.50	3.04	2.54
<b>Total</b>				<b>7.99</b>	<b>9.88</b>	<b>1.89</b>

8. The Review Petitioner in Petition No. 468/TT/2020 has claimed IDC of ₹611.14 lakh, ₹533.56 lakh and ₹956.05 lakh for Asset-I, Asset-II and Asset-III respectively. The Commission in order dated 19.8.2021 in Petition No. 468/TT/2020 has computed IDC



taking into consideration the IDC discharge statement, Auditor's Certificates, Form-9C and Form 12-B as submitted by the Petitioner. The total loan amount in IDC discharge statements was not matching with the details given in Form 9-C and Form 12-B. The difference observed by the Commission is as follows:

(₹ in lakh)		
<b>Asset</b>	<b>IDC Discharge Statement</b>	<b>Form 12-B/ Form 9C</b>
Asset-I	9690.42	9542.78
Asset-II	7819.36	7669.14
Asset-III	8184.41	8053.67

9. We have considered the details of the IDC discharge submitted by the Review Petitioner in Form-9C and Form-12B in the main petition for IDC computation as per the normal practice, which has resulted in reduction of ₹9.88 lakh from the Review Petitioner's claim of IDC in Petition No. 468/TT/2020. Thus, we do not find any anomaly in computation of the IDC in order dated 19.8.2021. Further, the Review Petitioner has not submitted as to how it has arrived at the computational difference of IDC amounting to ₹7.99 lakh in the instant review petition.

10. Thus, we do not find any apparent error in deduction of IDC amounting to ₹9.88 lakh due to computational difference in order dated 19.8.2021 in Petition No. 468/TT/2020 and no case for review of the IDC disallowed is made out by the Review Petitioner. Accordingly, the Review Petitioner's contention that IDC amounting to ₹9.88 lakh was wrongly deducted due to computational difference instead of ₹7.99 lakh is without basis and is accordingly rejected.



### **Restriction of O&M Expenses to percentage of capital cost upto the COD**

11. The clause (vi) of the second proviso to Regulation 35(3)(a) of the 2019 Tariff Regulations provides for grant of O&M Expenses for the SVCs at 1.5% of the original project cost as on the date of commercial operation and it has to be escalated at the rate of 3.51% for the tariff period. Accordingly, O&M Expenses were allowed for the transmission assets in order dated 19.8.2021 in Petition No.468/TT/2020 at the rate 1.5% of the capital cost as on the date of commercial operation which was escalated at the rate of 3.51% during the 2019-24 tariff period. However, the Review Petitioner has contended that O&M Expenses should be granted for the instant SVCs as a percentage of the admitted “original capital cost” up to the cut-off date as provided in Regulation 3(46) of the 2019 Tariff Regulations and restricting the O&M Expenses to 1.5% of the capital cost as on the COD would lead to an anomalous situation and the Review Petitioner would suffer. The Review Petitioner has contended that the “original project cost” as provided in Regulation 3(46) of the 2019 Tariff Regulations includes the capital expenditure up to the cut-off date. The Review Petitioner has contended that Regulation 24 and Regulation 25 of the 2019 Tariff Regulations envisage discharge of expenditure after the COD on account of undischarged liabilities to be payable at a future date and liability to meet award of arbitration relating to works undertaken before the COD. Accordingly, the capital expenditure towards the original scope of work up to the cut-off date as provided under Regulation 3(46) and as envisaged under Regulation 24 and Regulation 25 of the 2019 Tariff Regulations should be considered for computation of O&M Expenses. The Review Petitioner has further referred to the APTEL’s judgement dated 10.12.2008 in Appeal Nos.151 and 152 of 2007 in NTPC Limited vs CERC & Others. The Review Petitioner has



also referred to the Commission's order dated 18.10.2021 in Petition No.658/TT/2020 wherein the Commission considered the cost of the STATCOM up to the cut-off date for the purpose of computation of O&M Expenses by relaxing clause (vi) of the second proviso to Regulation 35(3)(a) of the 2019 Tariff Regulations under Regulation 76 of the 2019 Tariff Regulations.

12. We have considered the submissions of the Review Petitioner. The instant transmission assets are Static Var Compensators at Ludhiana, Kankroli and New Wanpoh Sub-stations and they were put into commercial operation in the 2014-19 tariff period and accordingly O&M Expenses were allowed for the 2014-19 tariff period as provided under Regulation 29(4)(a) of the 2014 Tariff Regulations. The Commission in the 2019 Tariff Regulations has provided for separate O&M Expenses for the Static Synchronous Compensator and Static Var Compensators in the 2019 Tariff Regulations. The clause (vi) of the second proviso to Regulation 35(3)(a) of the 2019 Tariff Regulations provides as follows:

***“(3) Transmission system:***

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

*.....*

*Provided further that:*

*.....*

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

13. The “Original Project Cost” has been defined in Regulation 3(46) of the 2019 Tariff Regulations as the capital expenditure towards the works within the original scope of work



up to the cut-off date, which includes the IDC, IEDC, land cost and cost of civil works. The Regulation 3(46) provides as follows:

*“3(46) ‘Original Project Cost’ means the capital expenditure incurred by the generating company or the transmission licensee, as the case may be, within the original scope of the project up to the cut-off date, and as admitted by the Commission;”*

14. Further, O&M Expenses has been defined in Regulation 3(45) of the 2019 Regulations as the expenditure incurred towards operation and maintenance of the project. It includes the expenditure towards manpower, maintenance, repairs and maintenance spares, insurance, etc. But, it does not include the IDC, IEDC, land cost and the cost of civil works included in the “original project cost.” Regulation 3(45) of the 2019 Tariff Regulations provides as follows:

*“(45) ‘Operation and Maintenance Expenses’ or ‘O&M expenses’ means the expenditure incurred for operation and maintenance of the project, or part thereof, and includes the expenditure on manpower, maintenance, repairs and maintenance spares, consumables, insurance and overheads and fuel other than used for generation of electricity;*

*Provided that for integrated mine(s), the Operation & Maintenance Expenses shall not include the mining charge paid to the Mine Developer and Operator, if any, engaged by the generating company and the mine closure expenses.”*

15. Allowing O&M Expenses for the transmission assets on the basis of the “project cost” as defined in Regulation 3(46) of the 2019 Tariff Regulations, which includes the IDC, IEDC, land cost and cost of civil works, will be inconsistent with the O&M Expenses as defined in Regulation 3(45) of the 2019 Tariff Regulations.

16. The way in which “original project cost” has been considered in the clause (vi) of the second proviso to Regulation 35(3)(a) and Regulation 3(46) of the 2019 Tariff Regulations is different. To deal with the difference in which the “original project cost” has been



considered in Regulation 35(3)(a) and Regulation 3(45) of the 2019 Tariff Regulations, the Commission in order dated 18.10.2021 in Petition No.685/TT/2020 had relaxed the clause (vi) of the second proviso to Regulation 35(3)(a) of the 2019 Tariff Regulations as provided under Regulation 76 of the 2019 Tariff Regulations and allowed O&M Expenses for the 2019 Tariff Regulations considering the Plant and Machinery cost, excluding the IDC, IEDC, land cost and cost of Civil Works, as on the cut-off date. The relevant portion of the order dated 18.10.2021 in Petition No.685/TT/2020 is as follows:

*“77. The clause (vi) of the second proviso to Regulation 35(3)(a) of the 2019 Tariff Regulations provides for O&M Expenses @ 1.5% of the “original project cost” of the STATCOM as on COD. “Original Project Cost” has been defined in Regulation 3(46) of the 2019 Tariff Regulations as under:*

*“3(46) ‘Original Project Cost’ means the capital expenditure incurred by the generating company or the transmission licensee, as the case may be, within the original scope of the project up to the cut-off date, and as admitted by the Commission;”*

*78. While “Original Project Cost” as defined in Regulation 3(46) of the 2019 Tariff Regulations covers capital expenditure/ cost within the original scope of the project up to the cut-off date, clause (vi) of the second proviso to Regulation 35(3)(a) of the 2019 Tariff Regulations refers to the “original project cost” of the STATCOM as on COD for the purpose of determining O&M Expenses.*

*79. We also observe that “original project cost” includes components of IDC, IEDC, land cost and cost of civil works. However, as per Regulation 3(45) of the 2019 Tariff Regulations extracted hereunder, the O&M Expenses are allowed for operation and maintenance of the project or part thereof and includes the expenditure towards manpower, maintenance, repairs and maintenance etc. but it excludes IDC, IEDC, land cost and cost of civil works:*

*“(45) ‘Operation and Maintenance Expenses’ or ‘O&M expenses’ means the expenditure incurred for operation and maintenance of the project, or part thereof, and includes the expenditure on manpower, maintenance, repairs and maintenance spares, consumables, insurance and overheads and fuel other than used for generation of electricity;”*

*80. Therefore, we are of the view that determination of O&M expenses on the basis of Project cost (including IDC, IEDC Land cost and Cost of civil work) will not be consistent with the provisions of the 2019 Tariff Regulations as extracted above.*

*81. Regulation 76 of the 2019 Tariff Regulations provides for relaxation of any of*





*the provisions of the 2019 Tariff Regulations by recording the reasons for the same. The said Regulation provides as follows.*

*“76. 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.”*

*82. To address above issues arising out of the difference in the way in which “original project cost” has been considered in clause (vi) of the second proviso to Regulation 35(3)(a) and Regulation 3(46) of the 2019 Tariff Regulations, we relax clause (vi) of the second proviso to Regulation 35(3)(a) of the 2019 Tariff Regulations under Regulation 76 of the 2019 Tariff Regulations and allow O&M Expenses for the transmission assets @1.5% of the Plant and Machinery cost (excluding IDC, IEDC, Land cost and cost of Civil works) of the STATCOM as on the cut-off date. The same has been escalated at the rate of 3.51% to work out the O&M Expenses for the 2019-24 tariff period.”*

17. It is observed that the O&M Expenses were allowed for the transmission assets @1.5% of the original project cost as on the date of commercial operation in accordance with clause (vi) of the second proviso to Regulation 35(3)(a) of the 2019 Tariff Regulations. As a result, the capital expenditure incurred by the Review Petitioner upto the COD was only considered as the base for computation of O&M Expenses and the capital expenditure incurred or disbursed towards the works within the original scope after the COD and up to cut-off date has not been considered for computation of the O&M Expenses for the transmission assets. It is further observed that the Commission in a similar case vide order dated 18.10.2021 in Petition No.685/TT/2020 had allowed the O&M Expenses @1.5% of the Plant and Machinery cost as on the cut-off date by relaxing the clause (vi) of the second proviso to Regulation 35(3)(a) of the 2019 Tariff Regulations under Regulation 79 of the 2019 Tariff Regulations.



18. In view of the above, we relax the clause (vi) of the second proviso to Regulation 35(3)(a) and Regulation 3(46) of the 2019 Tariff Regulations under Regulation 76 of the 2019 Regulations and revise the O&M Expenses allowed vide order dated 19.8.2021 by @1.5% of the Plant and Machinery cost (excluding IDC, IEDC, land cost and cost of Civil works) as on the cut-off date, which has been escalated at the rate of 3.51% for 2019- 24 tariff period.

19. The revision of O&M Expenses allowed for the transmission assets for the 2019-24 tariff period vide order dated 19.8.2021 in Petition No.468/TT/2020 will have consequential impact on Interest on Working Capital (IWC) and the AFC approved for the transmission assets. Accordingly, the tariff approved for the transmission assets for the 2019-24 tariff period in order dated 19.8.2021 in Petition No. 468/TT/2020 requires to be revised and the same is revised as follows:

**REVISION OF ANNUAL FIXED CHARGES FOR 2019-24 TARIFF PERIOD**

**Operation & Maintenance Expenses (“O&M Expenses”)**

20. O&M Expenses allowed in respect of the transmission assets for the 2019-24 tariff period in paragraph 114 of the order dated 19.8.2021 in Petition No. 468/TT/2020 is revised as follows:

(₹ in lakh)					
<b>Combined Asset</b>					
<b>Particulars</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
<b>SVC</b>					
Plant and Machinery Cost upto cut-off date	48995.02	48995.02	48995.02	48995.02	48995.02
<b>Norm Rate (in %) of O&amp;M Expenses</b>					
SVC	1.5000	1.5527	1.6071	1.6636	1.7219
<b>Total O&amp;M Expenses</b>	<b>734.93</b>	<b>760.75</b>	<b>787.40</b>	<b>815.08</b>	<b>843.65</b>



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

21. IWC allowed for the transmission assets for the 2019-24 tariff period in paragraph 117 of the order dated 19.8.2021 in Petition No. 468/TT/2020 is revised as follows:

	(₹ in lakh)				
<b>Particulars</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
Working Capital for O&M Expenses (O&M expenses for One month)	61.24	63.40	65.62	67.92	70.30
Working Capital for Maintenance Spares (15% of O&M expenses)	110.24	114.11	118.11	122.26	126.55
Working Capital for Receivables (Equivalent to 45 days of annual fixed cost / annual transmission charges)	1143.32	1150.48	1123.30	1097.45	1068.08
<b>Total Working Capital</b>	<b>1314.80</b>	<b>1327.99</b>	<b>1307.02</b>	<b>1287.63</b>	<b>1264.93</b>
Rate of Interest of working capital (in %)	12.05	11.25	10.50	10.50	10.50
<b>Interest of working capital</b>	<b>158.43</b>	<b>149.40</b>	<b>137.24</b>	<b>135.20</b>	<b>132.82</b>

### **Revised Annual Fixed Charges for 2019-24 Tariff Period**

22. The Annual Fixed Charges (AFC) approved for the transmission assets for the 2019-24 tariff period in paragraph 118 of the order dated 19.8.2021 in Petition No. 468/TT/2020 is revised as follows:

	(₹ in lakh)				
<b>Particulars</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
Depreciation	2849.52	2932.95	2932.95	2932.95	2932.95
Interest on Loan	2536.69	2384.94	2149.96	1914.64	1673.98
Return on Equity	3019.43	3103.64	3103.64	3103.64	3103.64
O&M Expenses	734.93	760.75	787.40	815.08	843.65
Interest on Working Capital	158.43	149.40	137.24	135.20	132.82
<b>Total</b>	<b>9299.00</b>	<b>9331.68</b>	<b>9111.19</b>	<b>8901.51</b>	<b>8687.04</b>

23. The summary of tariff allowed for 2019-24 in respect of the transmission assets in paragraph 133 (b) of the order dated 19.8.2021 in Petition No. 468/TT/2020 is revised as follows:



(₹ in lakh)				
2019-20	2020-21	2021-22	2022-23	2023-24
9299.00	9331.68	9111.19	8901.51	8687.04

24. Except for the above, all other terms contained in order dated 19.8.2021 in Petition No. 468/TT/2020 shall remain unchanged.

25. Accordingly, Review Petition No. 2/RP/2022 is disposed of in terms of the above discussions and findings.

sd/-  
**(P. K. Singh)**  
Member

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

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

