

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 12/RP/2022

in

Petition No. 308/TT/2020

Coram:

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

Date of Order : 12.10.2022

In the matter of:

Review Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, seeking review of order dated 28.2.2022 in Petition No. 308/TT/2020.

And in the matter of:

North East Transmission Company Limited,
B-9, Qutab Institutional Area, Katwaria Sarai,
New Delhi-110016.

.... **Review Petitioner**

Vs.

1. Power Grid Corporation of India Limited,
"Saudamini" Plot No-2, Sector – 29,
Gurgaon, Haryana- 122001
2. Central Transmission Utility of India Limited,
Plot No-2, Sector – 29,
Gurgaon, Haryana- 122001.
3. Tripura State Electricity Corporation Limited,
Bidyut Bhawan, North Banamaliupr,
Agartala, Tripura- 799001.
4. Assam Electricity Grid Corporation Limited,
Bijulee Bhawan, Paltan Bazar,
Guwahati- 781001.
5. Meghalaya Energy Corporation Limited,



(Previously known as Meghalaya State Electricity Board),
Lumjingshai, Short Round Road,
Shillong, Meghalaya- 793001.

6. Department of Power, Government of Nagaland,
Electricity House, A.G. Colony,
Kohima, Nagaland-797001.
7. Power & Electricity Department, Government of Mizoram,
Kawlphetha Building,
New Secretariat Complex, Khatla,
Aizawl, Mizoram- 79600.
9. Manipur State Power Distribution Company Limited,
(Previously known as Electricity Department Government of Manipur),
3rd Floor, New Directorate Building,
Near 2nd MR Gate, Imphal Dimapur Road,
Imphal West, Imphal, Manipur- 795001.
10. Department of Power, Government of Arunachal Pradesh,
Vidyut Bhawan, O-Point Tinali,
Itanagar, Arunachal Pradesh- 791111.
11. ONGC Tripura Power Company Limited,
10th floor, Core IV & Central,
Scope Minar Laxmi Nagar,
Delhi 110092.
12. North Eastern Regional Power Committee,
NERPC Complex, Dong Parmaw, Lapalang,
Shillong, Meghalaya- 793006.

...Respondents

For Petitioner : Shri M.G Ramachandran, Senior Advocate, NETCL
Shri Shubham Arya, Advocate, NETCL
Shri Ravi Nair, Advocate, NETCL,
Shri Satyajit Ganguly, NETCL
Shri Rajesh Gupta, NETCL

For Respondents : None



ORDER

North East Transmission Company Limited ('Review Petitioner/ NETCL') has filed the present Review Petition No. 12/RP/2022 seeking review and modification of order dated 28.2.2022 in Petition No. 308/TT/2020 under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 wherein tariff of 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 Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (hereinafter referred to as "the 2019 Tariff Regulations") in respect of **Asset- I:** 400 kV D/C Palatana-Silchar Twin Moose Conductor Transmission line- 247.30 km, **Asset II:** 400 kV D/C Silchar- Byrnihat (one circuit on D/C towers) Twin Moose Conductor Transmission Line- 214.41 km, **Asset-III:** 400 kV D/C Byrnihat-Bongaigaon (one circuit on D/C towers) Twin Moose Conductor Transmission Line- 201 km, **Asset-IV:** 400 kV D/C Silchar- Azara (one circuit on D/C towers) Twin Moose Conductor Transmission Line-256.41 km, **Asset-V:** 400 kV D/C Azara-Bongaigaon (one circuit on D/C towers) Twin Moose Conductor Transmission Line- 159 km (hereinafter referred to as the "transmission assets").

2. The Review Petitioner has submitted that there are following errors apparent on the face of record in the Commission's order dated 28.2.2022 in Petition No. 308/TT/2020 which are required to be modified:

- (i) The Commission has committed arithmetical errors in the order dated 28.2.2022 with regard to calculations/ mismatch in the rate of interest



considered by it and furnished by the Review Petitioner in its audited accounts for 2014-19 tariff period.

- (ii) While grossing up the rate of Return on Equity for 2014-19 tariff period, the Commission in the order dated 28.2.2022 inadvertently considered the rate of tax approved vide order dated 27.4.2020 in Petition No. 274/TT/2019 which is applicable to Powergrid Corporation of India Limited.
- (iii) Prayer is made in the Review Petition to relax the provisions of Regulation 10(7) of the 2019 Tariff Regulations and exempt the Review Petitioner from making payment of carrying cost required to be refunded to the beneficiaries in view of the Review Petitioner being a Single Asset Company.

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

“In view of the facts and circumstances mentioned above, it is most respectfully prayed that this Hon’ble Commission may be pleased to:

- a) *Admit the Petition;*
- b) *Rectify and Modify the order dated 28.02.2022 to the extent of revision of interest rate on loan as submitted by the Review Petitioner;*
- c) *Rectify and Modify the rate of Return on Equity as submitted by the Review Petitioner and allow the rate of Grossed up Return on Equity, in accordance with Regulation 25(3) of CERC Tariff Regulations 2014;*
- d) *Relax the provisions of Regulation 10(7) of Tariff Regulations, 2019 and exempt the Review Petitioner from the carrying cost required to be refunded to the beneficiaries; and*
- e) *Pass such other and further reliefs as may be permitted under the law.”*

4. The Review Petitioner has sought review of order dated 28.2.2022 in Petition No. 308/TT/2020 on the following three issues:

- a) Interest on Loan (IoL) allowed for 2014-19 tariff period.



- b) Return on Equity (RoE) allowed for 2014-19 tariff period.
- c) Interlocutory Application (IA) No. 56/IA/2020 being disposed of as infructuous.

Submissions of the Review Petitioner

5. The Review Petitioner has made the following submissions in support of the issues raised in the instant review petition:

Interest on Loan (IoL) allowed for 2014-19 tariff period:

- (a) The Commission in order dated 28.2.2022 while truing up the IoL, considered the net interest rate after deducting the rebate from the interest rate. The relevant extracts of the order dated 28.2.2022 are as follows:

“54. The Petitioner had availed loan facility of ₹169902 lakhs from PFC for the development of its Palatana-Bongaigaon transmission line.

55. As per the terms of its agreement dated 15.9.2009 with PFC, the rate of interest on loan was @12.50% with a timely rebate percentage @0.25%. Thus, the effective rate considered for computation was 12.25% for the financial year 2014-15. The Petitioner made continuous efforts to reduce the rate of interest from 12.50% to 11.50%. On 15.10.2015, net effective rate of interest was 10.40% after timely rebate of 1.10%. Subsequently, after several deliberations, the rate of interest offered by PFC was negotiated @ 9.04% (effective rate @ 8.79%) on 7.12.2017. On 2.1.2021, the rate has been further reduced to 6.44%. The effective weighted average rate of interest (E-WAROI) used in the tariff computation for 2014-19 and 2019-24 tariff period is worked out as follows:

E-WAROI						
Financial Year	Date from (A)	Date to (B)	Number of days (C)= (A-B)	Total Number of days	Rate in loan documents (in %)	E-WAROI worked out
2015-16	01-04-15	14-10-15	197.00	366	12.25	6.5936
	15-10-15	31-03-16	169.00	366	10.40	4.8022
E-WAROI						11.3958
2017-18	01-04-17	06-12-17	250.00	365	10.40	7.1233
	07-12-17	31-03-18	115.00	365	8.79	2.7695
E-WAROI						9.8927
2020-21	01-04-20	01-01-21	276.00	365	8.79	6.6467
	02-01-21	31-03-21	89.00	365	6.44	1.5703
E-WAROI						8.2170



(b) There are arithmetical errors in the rate of interest considered by the Commission and furnished by the Review Petitioner as per its audited accounts for financial years 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19. The comparative table of interest rates considered by the Commission and submitted by the Review Petitioner in the petition is as follows:

Particular	2014-15		2015-16		2016-17		2017-18		2018-19	
	As per Audited Financials	As per order dated 28.2.2022	As per Audited Financials	As per order dated 28.2.2022	As per Audited Financials	As per order dated 28.2.2022	As per Audited Financials	As per order dated 28.2.2022	As per Audited Financials	As per order dated 28.2.2022
Asset I	12.22%	12.25%	11.65%	11.40%	11.43%	10.40%	10.60%	9.89%	8.73%	8.79%
Asset II	12.22%	12.25%	11.65%	11.40%	11.43%	10.40%	10.60%	9.89%	8.73%	8.79%
Asset III	12.22%	12.25%	11.65%	11.40%	11.43%	10.40%	10.60%	9.89%	8.73%	8.79%
Asset IV	12.22%	12.25%	11.65%	11.40%	11.43%	10.40%	10.60%	9.89%	8.73%	8.79%
Asset V	12.22%	12.25%	11.65%	11.40%	11.43%	10.40%	10.60%	9.89%	8.73%	8.79%

(c) In support of its submissions, the Review Petitioner had filed audited financials (Balance Sheets and Profit & Loss Accounts) for the financial years 2014-15 to 2018-19 in Petition No. 308/TT/2020 showing net interest paid at the relevant time to PFC. Accordingly, the order dated 28.2.2022 in Petition No. 308/TT/2020 is required to be modified taking into consideration the interest rates submitted by the Review Petitioner as per its audited financial statement.

Return on Equity(RoE) allowed for 2014-19 tariff period:

(a) As per Regulation 25 of the 2014 Tariff Regulations, the grossed-up rate of RoE has to be trued up on the basis of actual tax paid together with any additional tax demand including interest thereon.

(b) The details of actual tax paid along with the details of MAT income certified by the Auditor were submitted, vide its affidavit dated 5.10.2020, as recorded in



paragraph 61 of the order dated 28.2.2022. In 2015-16, the Review Petitioner had incurred loss and, hence, no MAT was claimed in that year. Thus, the effective tax rate and the grossed-up RoE that is required to be considered was provided in the affidavit dated 5.10.2020 is as follows:

Year	Effective Tax percentage (in %)	Grossed-up RoE (in %) [(Base Rate)/(1-t)]
2014-15	22.19%	19.92%
2015-16	0.00%	15.50%
2016-17	21.34%	19.71%
2017-18	21.35%	19.71%
2018-19	21.59%	19.77%

(c) The Commission in the order dated 28.2.2022 while grossing up of the rate of the RoE has inadvertently considered the tax rate as per the order dated 27.4.2020 passed in Petition No. 274/TT/2019 in the case of Power Grid Corporation of India Limited. The rate as considered in the order dated 27.4.2020 is different from the actual effective MAT rate paid by the Review Petitioner and the same was furnished by the Review Petitioner vide affidavit dated 5.10.2020. The MAT rate, inter-alia, held in the order dated 28.2.2022 as follows:

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

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



(d) The Commission vide order dated 28.2.2022 has approved the RoE for the tariff period for different assets in Para 64 of the order dated 28.2.2022 and the same is follows:

“

Assets	2014-15	2015-16	2016-17	2017-18	2018-19
ASSET I	19.610%	15.500%	19.705%	19.705%	19.758%
ASSET II	19.610%	15.500%	19.705%	19.705%	19.758%
ASSET III	19.610%	15.500%	19.705%	19.705%	19.758%
ASSET IV	19.610%	15.500%	19.705%	19.705%	19.758%
ASSET V	19.610%	15.500%	19.705%	19.705%	19.758%

”

e) Thus, the order dated 28.2.2022 is required to be modified by considering the actual tax paid by the Review Petitioner.

Review with reference to I.A No. 56 of 2020 adjudged as infructuous in order dated 28.2.2022

- a) During the pendency of Petition No. 308/TT/2020, the Review Petitioner had filed I.A. No. 56 of 2022 seeking leave of the Commission to bill the beneficiaries as per tariff claimed in Petition No. 308/TT/2020 for 2019-24 tariff period. It was categorically submitted by the Review Petitioner in the said IA that current billing for 2019-24 tariff period is being done as per tariff order of 2014-19 period as approved vide order dated 16.8.2016 in Petition No. 213/TT/2015 under Regulation 10(4) of the 2019 Tariff Regulations. Annual Fixed Charges (AFC) with respect to transmission assets (Asset-I to Asset-V) for the financial year 2018-19 approved vide order dated 16.8.2016 in Petition No. 213/TT/2015 as ₹35153.16 lakh is higher than the AFC of ₹33645.09 lakh as claimed by the Petitioner for the financial year 2019-20. Therefore, Review Petitioner being a single asset company, sought to bill the beneficiaries as per the tariff claimed in Petition No. 308/TT/2020 for 2019-24 period in order to obviate the



interest liability in future in respect of higher billing. However, the Commission vide order dated 28.2.2022, disposed of the said IA No. 56 of 2020, observing the same as infructuous. In terms of the Commission's order dated 28.2.2022, the excess amount recovered from the beneficiaries alongwith applicable interest as per Regulation 10(7) of the 2019 Tariff Regulation is required to be refunded to the beneficiaries.

- b) In order to reduce the interest liability, the Review Petitioner offered to refund the excess amount to the beneficiaries through the CTU as per mechanism specified in Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations 2020 ("the 2020 Sharing Regulations'). In this connection, the Review Petitioner wrote letter dated 30.12.2021 to CTU and sent e-mail dated 9.3.2020 to Power System Operation Corporation Limited (POSOCO) for billing the beneficiaries as per its claim in Petition No. 308/TT/2020 to which CTU did not agree citing the reason that the arrangement as suggested by the Review Petitioner was not possible in the absence of Commission's order to this effect.
- c) The Review Petitioner has been managing its cash flow through efficient cash management and it was compelled to invest the surplus amount under various short term investment schemes which yielded a meagre return between 4% to 9%. However, due to pendency of Petition No.308/TT/2020 before the Commission, the Review Petitioner was required to bear a higher carrying cost burden between 10.50% to 12.05% for no fault of its own.



- d) Being a single asset company, the Review Petitioner does not enjoy the scale of Central/ State Transmission Utilities and has to manage its funds prudently in order to efficiently manage the operations. The carrying cost so accrued due to excessive billing, would burden the Review Petitioner significantly thereby impacting its RoE.
- e) The Review Petitioner has prayed the Commission to exercise its power to relax under Regulation 76 of the 2019 Tariff Regulations and relax the provision of Regulation 10(7) of the 2019 Regulations and exempt the Review Petitioner from making payment of carrying cost to the beneficiaries.

6. The Review Petition was heard through virtual mode and was admitted on 29.6.2022. The Respondents were directed to file their reply. However, none of the Respondents filed reply in the matter. Accordingly, after hearing the learned senior counsel for the Review Petitioner on 12.8.2022, order was reserved.

Analysis and Decision

7. We have considered the contentions of the Review Petitioner, perused the impugned order dated 28.2.2022 and have also gone through the record. Learned senior counsel for the Review Petitioner contended that the Commission in its order dated 28.2.2022 while truing up the IoL for 2014-19 period considered net interest rate after deducting the rebate from the interest rate, there is mismatch in the interest rate considered by the Commission vis-à-vis the rates furnished by the Review Petitioner as per its audited accounts for financial years 2014-15,



2015-16, 2016-17, 2017-18 and 2018-19. He pointed out that for two financial years i.e. 2014-15 and 2015-16, rate of interest has been considered more compare to the rate as per the audited accounts, while for three financial years i.e. 2016-17, 2017-18 and 2018-19, the rate of interest considered is less. Learned senior counsel supported the Review Petitioner's contentions regarding the mismatch/ arithmetical errors in the impugned order by way of a table comparing the interest rates considered by the Commission and submitted by the Review Petitioner and the same has been filed in the instant Review Petition.

8. Learned counsel further drew the attention of the Commission to the impugned order and contended that the Commission while grossing the rate of RoE has inadvertently considered the tax rate considered in order dated 27.4.2020 in Petition No. 274/TT/2019 which is applicable for Power Grid Corporation of India Limited (PGCIL). Learned senior counsel contended that the rate as considered in the order dated 27.4.2020 in Petition No. 274/TT/2019 is different from the actual effective MAT rate paid by the Review Petitioner and the same is evident from the affidavit dated 5.10.2020 submitted by the Review Petitioner wherein the details of actual tax paid along with the details of MAT rate certified by the Auditor had been furnished.

9. Learned senior counsel also contended that the Review Petitioner filed I.A. No. 56 of 2020 with the submissions that current billing for 2019-24 tariff period is being done as per tariff order of 2014-19 period approved in Petition No. 213/TT/2015. Since AFC with respect to the transmission assets approved vide



order dated 16.8.2016 in Petition No. 213/TT/2015 is higher than the AFC claimed by the Petitioner for 2019-20 in Petition No. 308/TT/2020, the Review Petitioner sought to bill the beneficiaries as per the tariff claimed in Petition No. 308/TT/2020 for 2019-24 period to contain interest liability in future in respect of higher billing till the Petition No. 308/TT/2020 is disposed of. However, the Commission vide order dated 28.2.2022 disposed of the same as infructuous. Resultantly, in terms of Commission's order dated 28.2.2022, the surplus amount is required to be refunded to the beneficiaries alongwith applicable interest as per Regulation 10(7) of the 2019 Tariff Regulations. The Review Petitioner has prayed to relax the provision of Regulation 10(7) of the 2019 Tariff Regulations thereby exempt the Review Petitioner from payment of carrying cost to the beneficiaries.

10. Order XLVII Rule 1 of Code of Civil Procedure, 1908, provides that a party considering itself aggrieved by an order may seek review of the order under the following circumstances:

“(a) On discovery of new and important matter or evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or

(b) On account of a mistake or error apparent on the face of the record, or

(c) For any other sufficient reasons.”

Interest on Loan

11. With reference to computational error/ mismatch in IoL, we have scrutinized the record and perused the order dated 28.2.2022. On scrutiny of record, we notice that the Review Petitioner had submitted Form-9C, Loan Agreement dated 15.9.2009 and Audited Financial Statement. On perusal of the Auditor's Note No. 16



of 'Notes Forming Part of the Balance Sheet as on 31.3.2018, the following facts emerged:

- (a) The Company has availed loan from Power Finance Corporation by creating a first charge on the Company's movable and immovable properties acquired for the project alongwith review and receivables from the project, present and future.
- (b) The total loan commitment is ₹16,990,200,000/-
- (c) Repayment of loan in 60 equal quarterly instalments starting from 1st October, 2015.
- (d) Rate of interest is @ 12.50% up to 14th October, 2015 and @ 11.50% from 15th October, 2015.
- (e) Rebate allowed is @ 0.25% p.a. up to 14th October, 2015 and @ 1.10% p.a. from 15th October, 2015 upto 6th December, 2017.
- (f) Rate of interest has been reduced from 11.50% to 8.79% w.e.f. 7.12.2017.

12. In view of above, the following was considered and observed by the Commission:

Particulars		2014-15	1.4.2015 to 14.10.2015	15.10.2015 to 31.3.2016	2016-17	1.4.2017 to 6.12.2017	7.12.2017 to 31.3.2018	2018-19
As per loan Agreement dated 12.9.2009	Interest Rate	12.50	12.50	11.50	11.50	11.50	8.79	8.79
	Applicable rebate	0.25	0.25	1.10	1.10	1.10		
Submitted by the petitioner in Form 9C		12.46	12.12	12.12	11.99	10.67	10.67	8.97
Considered in the order dated 28.2.2022		12.25	11.40		10.40	9.89		8.79
Submitted by the petitioner in the Review petition as per Audited Financial Statement		12.22	11.65		11.43	10.60		8.73

13. On perusal of above table, it is evident that a rebate of 0.25% upto 14.10.2015 and rebate of 1.10% form 15.10.2015 to 6.12.2017 was offered by PFC.



As per the computation based on audited financial statements now furnished by the Review Petitioner, the average rate of interest is lower than gross interest rate which indicates that the Review Petitioner availed benefit of rebate in some instances whereas benefit of rebate could not be availed by the Review Petitioner in some instances. Ostensible reasons for not availing the claim of rebate by the Review Petitioner may be due to non-payment of the loan instalments by the scheduled date for availing rebate. Interest on loan is a pass-through item in tariff. In view of the facts and circumstances of the case, we deem it proper to allow the revision/ modification of our dated 28.2.2022 on the issue of rate of IoL. However, we are of the view that the Review Petitioner should take appropriate steps so as to avail rebates and reduce financial burden on the beneficiaries.

14. In view of above discussions and based on the data provided in the audited financial statements, the rate of interest is now revised and the details of IoL allowed for the transmission assets for 2014-19 tariff period are as follows:

(₹ in lakh)					
Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Gross opening loan	146458.83	169686.91	169686.91	169686.91	169686.91
Cumulative repayments of loans up to previous year	-	-	5656.23	16968.69	28281.15
Net loans opening	146458.83	169686.91	164030.68	152718.22	141405.76
Add: drawl(s) during the year	23228.08	-	-	-	-
Less: repayment(s) of loan during the year	-	5656.23	11312.46	11312.46	11312.46
Net closing loan	169686.91	164030.68	152718.22	141405.76	130093.30
Average net loan	158072.87	166858.80	158374.45	147061.99	135749.53
Rate of interest on loan	12.22	11.65	11.43	10.60	8.73
Interest on loan	19310.68	19446.02	18102.57	15586.08	11848.61

15. The rate of interest arrived in the above table has been used for asset-wise computation of IoL and the same is as follows:



Asset-I**(₹ in lakh)**

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Gross Normative Loan	48710.58	49825.05	49983.80	50003.08	50045.46
Cumulative Repayments up to Previous Year	5028.93	8283.38	11583.46	14890.25	18199.37
Net Loan-Opening	43681.66	41541.68	38400.34	35112.83	31846.09
Additions due to ACE	1114.47	158.75	19.28	42.39	330.93
Repayment during the year	3254.45	3300.08	3306.80	3309.12	3318.61
Net Loan-Closing	41541.68	38400.34	35112.83	31846.09	28858.40
Average Loan	42611.67	39971.01	36756.58	33479.46	30352.25
Weighted Average Rate of Interest on Loan (%)	12.22	11.65	11.43	10.60	8.73
Interest on Loan	5207.15	4656.62	4201.28	3548.82	2649.75

Asset-II**(₹ in lakh)**

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Gross Normative Loan	25787.61	26130.90	26597.79	26650.75	26670.62
Cumulative Repayments upto Previous Year	1824.38	3539.26	5284.70	7049.74	8817.52
Net Loan-Opening	23963.23	22591.64	21313.09	19601.01	17853.10
Additions due to ACE	343.29	466.89	52.96	19.87	0.00
Repayment during the year	1714.88	1745.44	1765.04	1767.79	1768.54
Net Loan-Closing	22591.64	21313.09	19601.01	17853.10	16084.56
Average Loan	23277.44	21952.37	20457.05	18727.06	16968.83
Weighted Average Rate of Interest on Loan (%)	12.22	11.65	11.43	10.60	8.73
Interest on Loan	2844.50	2557.45	2338.24	1985.07	1481.38

Asset-III**(₹ in lakh)**

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Gross Normative Loan	30863.50	31097.37	31679.66	32475.94	34019.33
Cumulative Repayments upto Previous Year	0.00	212.99	2289.58	4418.16	6630.79
Net Loan-Opening	30863.50	30884.38	29390.08	28057.77	27388.55
Additions due to ACE	233.87	582.30	796.28	1543.40	86.82
Repayment during the year	212.99	2076.59	2128.58	2212.62	2269.90
Net Loan-Closing	30884.38	29390.08	28057.77	27388.55	25205.47
Average Loan	30873.94	30137.23	28723.93	27723.16	26297.01
Weighted Average Rate of Interest on Loan (%)	12.22	11.65	11.43	10.60	8.73
Interest on Loan	392.78	3510.99	3283.14	2938.66	2295.73



Asset-IV**(₹ in lakh)**

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Gross Normative Loan	34713.85	35141.70	36642.59	36716.28	36716.28
Cumulative Repayments upto Previous Year	0.00	1567.67	3947.66	6387.03	8829.19
Net Loan-Opening	34713.85	33574.03	32694.93	30329.24	27887.09
Additions due to ACE	427.85	1500.89	73.69	0.00	0.00
Repayment during the year	1567.67	2379.99	2439.38	2442.15	2442.15
Net Loan-Closing	33574.03	32694.93	30329.24	27887.09	25444.94
Average Loan	34143.94	33134.48	31512.09	29108.17	26666.01
Weighted Average Rate of Interest on Loan (%)	12.22	11.65	11.43	10.60	8.73
Interest on Loan	2834.94	3860.17	3601.83	3085.47	2327.94

Asset-V**(₹ in lakh)**

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Gross Normative Loan	24299.18	24522.10	25521.36	25795.39	26070.48
Cumulative Repayments upto Previous Year	0.00	331.26	1989.51	3695.78	5422.76
Net Loan-Opening	24299.18	24190.83	23531.85	22099.61	20647.72
Additions due to ACE	222.92	999.26	274.03	275.09	74.52
Repayment during the year	331.26	1658.25	1706.27	1726.98	1740.16
Net Loan-Closing	24190.83	23531.85	22099.61	20647.72	18982.08
Average Loan	24245.00	23861.34	22815.73	21373.67	19814.90
Weighted Average Rate of Interest on Loan (%)	12.22	11.65	11.43	10.60	8.73
Interest on Loan	608.78	2779.85	2607.84	2265.61	1729.84

Return on Equity (RoE)

16. To deal with the contentions of the Review Petitioner with reference to the RoE, we have perused the record and order dated 28.2.2022. It is observed that the Review Petitioner vide affidavit dated 5.10.2020 had submitted the details of actual tax paid alongwith the details of MAT income certified by the Auditor and the same has been recorded in Para 61 of the order dated 28.2.2022 in Petition No. 308/TT/2020. It was also submitted that in 2015-16, the Review Petitioner had incurred loss and, therefore, no MAT was claimed in that year. Thus, effective tax



rate and grossed-up RoE were claimed as per the Review Petitioner's affidavit dated 5.10.2020 in Petition No. 308/TT/2020 and the same are as follows:

Year	Effective Tax percentage (in %)	Grossed-up RoE (in %) [(Base Rate)/(1-t)]
2014-15	22.19%	19.92%
2015-16	0.00%	15.50%
2016-17	21.34%	19.71%
2017-18	21.35%	19.71%
2018-19	21.59%	19.77%

17. According to the Review Petitioner, the Commission in its order dated 28.2.2022, while grossing up of the rate of RoE has inadvertently considered the tax rate as per the order dated 27.4.2020 passed in Petition No. 274/TT/2019 applicable to Powergrid Corporation of India Limited. However, the rate as considered in the order dated 27.4.2020 is different from the actual effective MAT rate paid by the Review Petitioner and the same was furnished by the Review Petitioner vide affidavit dated 5.10.2020. With regard to the MAT rates, the Commission in order dated 28.2.2022 observed as follows:

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

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

18. The Commission in Para 64 of the Order dated 28.2.2022 in Petition No. 308/TT/2020 approved the rate of RoE for 2014-19 tariff period in respect of the transmission assets and the same is as follows:



Assets	2014-15	2015-16	2016-17	2017-18	2018-19
ASSET I	19.610%	15.500%	19.705%	19.705%	19.758%
ASSET II	19.610%	15.500%	19.705%	19.705%	19.758%
ASSET III	19.610%	15.500%	19.705%	19.705%	19.758%
ASSET IV	19.610%	15.500%	19.705%	19.705%	19.758%
ASSET V	19.610%	15.500%	19.705%	19.705%	19.758%

19. We notice that the Review Petitioner in Petition No. 308/TT/2020 had submitted Auditor's Certificate wherein details of tax and interest paid alongwith assessed MAT income under section 115 JB of the Income Tax Act, 1961 were given. However, there was no bifurcation of tax amount and interest amount in the Auditor's certificate. The Review Petitioner was specifically directed to submit the details (section-wise of Income Tax Act, 1961) of "Total Tax and Interest paid", "Assessed MAT Income" and "Refund of Tax and interest recovered thereon or additional payment of tax and penalty for short deposited tax" duly certified by the Auditor in accordance with applicable Auditing Standard and Implementation Guidelines, in order to arrive at the effective tax percentage for 2014-19 tariff period. The Review Petitioner was further directed to submit the information separately for "Tariff Income" and "Non-Tariff Income" duly reconciled with Books of Accounts.

20. On fresh consideration of the information submitted by the Review Petitioner in its affidavit dated 5.10.2020, we observe that on the basis of total tax and interest paid, the Review Petitioner has claimed effective tax percentage which is marginally more than the MAT rate for 2014-15, 2017-18 and 2018-19. Given below is the comparative analysis of effective rate of tax claimed and MAT rate allowed in Petition No. 308/TT/2020:

Year	Effective Tax Rate Claimed	MAT Rate allowed in 308/TT/2020
2014-15	22.190%	20.961%
2015-16	0.000%	0.000%*



Year	Effective Tax Rate Claimed	MAT Rate allowed in 308/TT/2020
2016-17	21.342%	21.342%
2017-18	21.349%	21.342%
2018-19	21.590%	21.549%

* Though MAT rate of 21.342% is allowable for FY 2015-16, however since the petitioner was in loss during FY 2015-16, so the effective tax rate has not been grossed up and ROE @ 15.50% was allowed.

21. On analysis of the information furnished by the Review Petitioner, we note that there is no break up of interest amount from the tax amount as a result of which, effective tax rate cannot be worked out.

22. From the above discussions, it is clear that the Commission had consciously considered MAT rate for grossing up of RoE for the reason that any amount of interest paid by the Review Petitioner for default in payment of advance tax under section 234 B and interest for deferment of the advance tax under section 234 C of the Income Tax Act, 1961 cannot be considered for the purpose of grossing up of RoE. Besides this, Regulation 25(3) of the 2014 Tariff Regulations provides that, penalty, if any, arising on account of delay in deposit or short deposit of tax amount shall not be claimed by the generating company of the transmission licensee, as the case may be.

23. Similar issue has already been considered by the Commission in its order dated 27.4.2020 in Petition No. 274/TT/ 2019 and the relevant excerpts of the same are as follows:

"26. We are conscious that the entities covered under MAT regime are paying Income Tax as per MAT rate notified for respective financial year under IT Act, 1961, which is levied on the book profit of the entity computed as per the Section 115JB of the IT Act, 1961. The Section 115JB(2) defines book profit as net profit in the statement of Profit & Loss prepared in accordance with Schedule-III of the Companies Act, 2013, subject to some additions and deductions as mentioned in the IT Act, 1961. Since the Petitioner has been paying income tax on income computed under Section 115JB of the IT Act, 1961 as per the MAT rates of the respective financial year, the notified MAT



rate for respective financial year shall be considered as effective tax rate for the purpose of grossing up of RoE for truing up of the tariff of the 2014-19 tariff period in terms of the provisions of the 2014 Tariff Regulations. Interest imposed on any additional income tax demand as per the Assessment Order of the Income Tax authorities shall be considered on actual payment. However, penalty (for default on the part of the Assessee) if any imposed shall not be taken into account for the purpose of grossing up of rate of return on equity. Any under-recovery or over-recovery of grossed up rate on return on equity after truing up, shall be recovered or refunded to beneficiaries or the long term transmission customers/ DICs as the case may be on year to year basis.

XXX”

24. In view of above discussions and the reasons cited above, we do not agree with the Review Petitioner that there is any error in our order dated 28.2.2022 with regard to RoE allowed for the transmission assets for 2014-19 tariff period. Accordingly, review of the order dated 28.2.2022 on this score is rejected.

25. The revision of IoL allowed for the transmission assets for the 2014-19 tariff period will have consequential impact on the Interest on Working Capital (IWC) and the AFC allowed for the transmission assets. Accordingly, the IWC and the AFC allowed for the transmission assets for 2014-19 tariff period in order dated 28.2.2022 in Petition No. 308/TT/2020 needs to be revised and the same is revised as follows.

Interest on Working Capital (IWC)

Asset-I

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Maintenance Spares (15% of O&M Expenses)	26.24	27.13	28.02	28.94	29.91
O&M expenses (O&M Expenses for 1 month)	14.58	15.07	15.57	16.08	16.62
Receivables (Equivalent to 2 months of annual fixed cost)	1888.58	1723.75	1740.55	1631.23	1484.54
Total Working Capital	1929.39	1765.95	1784.13	1676.26	1531.06
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
Interest on Working Capital	260.47	238.40	240.86	226.29	206.69



Asset-II

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Maintenance Spares (15% of O&M Expenses)	11.37	11.76	12.14	12.54	12.96
O&M expenses (O&M Expenses for 1 month)	6.32	6.53	6.75	6.97	7.20
Receivables (Equivalent to 2 months of annual fixed cost)	1008.70	924.32	942.47	883.72	799.22
Total Working Capital	1026.39	942.61	961.36	903.23	819.38
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
Interest on Working Capital	138.56	127.25	129.78	121.94	110.62

Asset-III

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Maintenance Spares (15% of O&M Expenses)	10.24	11.02	11.38	11.76	12.15
O&M expenses (O&M Expenses for 1 month)	5.69	6.12	6.32	6.53	6.75
Receivables (Equivalent to 2 months of annual fixed cost)	1263.76	1175.48	1212.78	1185.66	1098.82
Total Working Capital	1279.70	1192.62	1230.49	1203.95	1117.72
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
Interest on Working Capital	17.99	161.00	166.12	162.53	150.89

Asset-IV

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Maintenance Spares (15% of O&M Expenses)	13.66	14.06	14.52	15.00	15.50
O&M expenses (O&M Expenses for 1 month)	7.59	7.81	8.07	8.33	8.61
Receivables (Equivalent to 2 months of annual fixed cost)	1414.05	1323.15	1366.95	1280.47	1152.76
Total Working Capital	1435.29	1345.02	1389.53	1303.80	1176.87
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50
Interest on Working Capital	131.65	181.58	187.59	176.01	158.88

Asset-V

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Maintenance Spares (15% of O&M Expenses)	8.43	8.72	9.00	9.30	9.61
O&M expenses (O&M Expenses for 1 month)	4.68	4.84	5.00	5.17	5.34
Receivables (Equivalent to 2 months of annual fixed cost)	994.63	935.66	969.80	919.28	833.67
Total Working Capital	1007.75	949.22	983.80	933.75	848.63
Rate of Interest (%)	13.50	13.50	13.50	13.50	13.50



Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Interest on Working Capital	27.95	128.14	132.81	126.06	114.56

Annual Transmission Charges

26. The revised Annual Fixed Cost in view of the revision in IoL and IWC of the transmission assets for the 2014-19 tariff period is as follows:

Asset-I

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	3254.45	3300.08	3306.80	3309.12	3318.61
Interest on Loan	5207.15	4656.62	4201.28	3548.82	2649.75
Return on Equity	2434.52	1966.57	2507.60	2510.20	2532.76
Interest on Working Capital	260.47	238.40	240.86	226.29	206.69
O & M Expenses	174.90	180.84	186.78	192.96	199.40
Total	11331.49	10342.51	10443.32	9787.39	8907.21

Asset-II

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	1714.88	1745.44	1765.04	1767.79	1768.54
Interest on Loan	2844.50	2557.45	2338.24	1985.07	1481.38
Return on Equity	1278.48	1037.44	1340.83	1343.91	1348.37
Interest on Working Capital	138.56	127.25	129.78	121.94	110.62
O & M Expenses	75.80	78.37	80.94	83.62	86.40
Total	6052.23	5545.95	5654.84	5302.32	4795.30

Asset-III

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	212.99	2076.59	2128.58	2212.62	2269.90
Interest on Loan	392.78	3510.99	3283.14	2938.66	2295.73
Return on Equity	158.55	1230.84	1622.96	1721.75	1795.41
Interest on Working Capital	17.99	161.00	166.12	162.53	150.89
O & M Expenses	7.11	73.47	75.88	78.39	81.00
Total	789.42	7052.89	7276.69	7113.95	6592.93

Asset-IV

(₹ in lakh)

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	1567.67	2379.99	2439.38	2442.15	2442.15
Interest on Loan	2834.94	3860.17	3601.83	3085.47	2327.94
Return on Equity	1168.54	1423.43	1876.08	1879.20	1884.25
Interest on Working Capital	131.65	181.58	187.59	176.01	158.88
O & M Expenses	61.86	93.72	96.80	100.00	103.34
Total	5764.66	7938.89	8201.68	7682.83	6916.57



Asset-V**(₹ in lakh)**

Particulars	2014-15	2015-16	2016-17	2017-18	2018-19
Depreciation	331.26	1658.25	1706.27	1726.98	1740.16
Interest on Loan	608.78	2779.85	2607.84	2265.61	1729.84
Return on Equity	246.71	989.59	1311.82	1335.01	1353.40
Interest on Working Capital	7.95	128.14	132.81	126.06	114.56
O & M Expenses	11.55	58.12	60.03	62.01	64.08
Total	1226.26	5613.95	5818.77	5515.66	5002.05

Review of I.A. No. 56 of 2020 considered as infructuous in order dated 28.2.2022

27. The AFC for the transmission assets for 2014-19 was approved vide order dated 16.8.2016 in Petition No. 213/TT/2015. Thereafter, the Review Petitioner filed Petition No. 308/TT/2020 for truing up the tariff of the 2014-19 tariff period and determination of tariff of the 2019-24 tariff period. The billing for 2019-24 tariff period is done as per the tariff granted vide order dated 16.8.2016 in Petition No. 213/TT/2015 as provided under Regulation 10(4) of the 2019 Tariff Regulations. The Review Petitioner has submitted that the tariff granted for the transmission assets for 2018-19 period vide order 16.8.2016 in Petition No. 213/TT/2015 was ₹35153.15 lakh and it is higher than the AFC of ₹33645.09 lakh claimed by the Review Petitioner for 2019-20 in Petition No. 308/TT/2020. Therefore, the Review Petitioner filed I.A. No.56/IA/2020 on 21.7.2020 in Petition No.308/TT/2020 praying that the Review Petitioner may be allowed to claim tariff for 2019-20 period as per the tariff claimed in Petition No. 308/TT/2020 till Petition No. 308/TT/2020 is disposed of. However, the Commission vide order dated 28.2.2022 disposed the IA alongwith the main Petition No. 308/TT/2020 stating that the tariff for the transmission assets for 2014-19 period has been trued up and tariff for 2019-24 period was determined and, therefore, the IA seeking the Petitioner to bill the beneficiaries as per the tariff claimed for 2019-24 period has become infructuous.



28. The Review Petitioner has submitted that the Review Petitioner was compelled to invest the surplus amount recovered from the beneficiaries under various short-term investment schemes which yielded a meagre return of between 4% to 9%. However, due to pendency of the Petition No. 308/TT/2020 before the Commission, the Review Petitioner was required to bear a higher carrying cost burden between 10.50% to 12.05%. The Review Petitioner has submitted that by way of letter/e-mail sent to CTU and POSOCO requested for collection of transmission charges as per the lower tariff as claimed in Petition No. 308/TT/2020 so that the Review Petitioner may save carrying cost on account of excessive billing and this proposal was not accepted by CTU as the same was not backed by the order of the Commission. The Review Petitioner has also cited in the said application that it is a single asset company and it does not enjoy the scale of Central/ State Transmission Utilities and it has to manage its funds prudently in order to efficiently manage the operations. The Commission, after taking into consideration all these facts and the fact that it has trued up the tariff for 2014-19 tariff period in respect of the transmission assets and determined the tariff in respect of the Combined Asset for 2019-24 period, observed that IA No. 56 of 2020 had become infructuous and disposed of the same.

29. We have considered the contentions of the Review Petitioner. The Commission has already approved the tariff for 2019-24 in petition no 308/TT/2020 as per the trued-up capital cost on 31.03.2019. Therefore, the Review Petitioner is now charging the revised transmission charges approved on 28.02.2022 in Petition No. 308/TT/2020 The Review Petitioner has failed to point out any error apparent on record with respect to observation of the Commission in order dated 28.2.2020 that



I.A. No. 56 of 2020 has become infructuous. On perusal of the said IA, we find that the grounds as have now been raised in the Review Petition were also raised earlier in IA No. 56 of 2020 and the Commission after considering them opined the said IA became infructuous as final tariff was approved for the transmission assets vide order dated 28.2.2020. Even otherwise, had the Commission accepted the contentions of the Review Petitioner in I.A. No. 56 of 2020, the same would have been violative of Regulation 10(4) and Regulation 10(7) of the 2019 Tariff Regulations and would affect the right of the beneficiaries to get back the excess tariff recovered by the Review Petitioner alongwith interest, which provides as follows:

“10. Determination of tariff

4) In case of the existing projects, the generating company or the transmission licensee, as the case may be, shall continue to bill the beneficiaries or the long term customers at the capacity charges or the transmission charges respectively as approved by the Commission and applicable as on 31.3.2019 for the period starting from 1.4.2019 till approval of final capacity charges or transmission charges by the Commission in accordance with these regulations:

Provided that the billing for energy charges w.e.f. 1.4.2019 shall be as per the operational norms specified in these regulations.”

“(7) The difference between the tariff determined in accordance with clauses (3) and (5) above and clauses (4) and (5) above, shall be recovered from or refunded to, the beneficiaries or the long term customers, as the case may be, with simple interest at the rate equal to the bank rate prevailing as on 1st April of the respective year of the tariff period, in six equal monthly instalments.”

30. The Review Petitioner has also contended that the Commission may under Regulation 76 of the 2019 Tariff Regulations relax the provisions of Regulation 10(7) of the 2019 Tariff Regulations and exempt the Review Petitioner from paying any carrying cost to the beneficiaries. The Regulation 76 of the 2019 Tariff Regulations confers power on the Commission to relax any of the provisions of the 2019 Tariff Regulations for reasons to be recorded in writing. However, in the facts and circumstances of the present case, it is not proper to exercise power vested under



Regulation 76 of the 2019 Tariff Regulations as doing so will unsettle the settled regulatory framework of the 2019 Tariff Regulations.

31. For the reasons mentioned above, we do not find it appropriate to review our order dated 28.2.2022 with respect to allowing the Review Petitioner to bill the beneficiaries as per 2014-19 tariff order till disposal of Petition No. 308/TT/2020. Accordingly, review of the order dated 28.2.2022 on this score is rejected.

32. Order dated 28.2.2022 in Petition No. 308/TT/2020 is modified to the extent indicated above. Except for the above, there shall be no change in the order dated 28.2.2022.

33. This order disposes of Petition No. 12/RP/2022 in terms of the above discussion and findings.

sd/-
(P. K. Singh)
Member

sd/-
(Arun Goyal)
Member

sd/-
(I.S. Jha)
Member

