

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.169/TT/2020

Coram:

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

Date of Order: 05.12.2022

In the matter of:

Approval under Regulation 86 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for approval of transmission tariff of the 2019-24 period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for "04 Nos. Line Bays (GIS) at (Hyderabad) Maheshwaram 765/400 kV SS, 02 Nos Line Bays at Warangal 400/220 kV SS and Balance items (PLCC, Telecom equipment and Line Terminal equipment such as LA, CVT & Wave Trap) at Kurnool 765/400 kV SS" under "Sub-station works associated with additional inter-regional AC link for import of power into Southern Region i.e., Warora-Warangal and Chilakaluripeta-Hyderabad-Kurnool 765 kV Link".

And in the matter of:

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

....Petitioner

Vs.

1. Karnataka Power Transmission Corporation Limited,
Kaveri Bhavan, Bangalore-560009.
2. Transmission Corporation of Andhra Pradesh Limited,
Vidyut Soudha,
Hyderabad- 500082.
3. Kerala State Electricity Board,
Vaidyuthi Bhavanam, Pattom,
Thiruvananthapuram-695004.



4. Tamil Nadu Generation and Distribution Corporation Limited,
NPKRR Maaligai, 800, Anna Salai,
Chennai-600002.
5. Electricity Department,
Government of Goa,
Vidyuti Bhawan, Panaji,
Goa-403001.
6. Electricity Department,
Government of Pondicherry,
Pondicherry-605001.
7. Eastern Power Distribution Company of Andhra Pradesh Limited,
P&T Colony, Seethmmadhara,
Vishakhapatnam, Andhra Pradesh.
8. Southern Power Distribution Company of Telangana Limited,
Corporate Office, Mint Compound,
Hyderabad-500063, Telangana.
9. Central Power Distribution Company of Andhra Pradesh Limited,
Corporate Office, Mint Compound,
Hyderabad-500063, Andhra Pradesh.
10. Northern Power Distribution Company of Telangana Limited,
Opp. NIT Petrol Pump,
Chaitanyapuri, Kazipet,
Warangal-506 004, Telangana.
11. Bangalore Electricity Supply Company Limited,
Corporate Office, K.R. Circle,
Bangalore – 560 001, Karnataka.
12. Gulbarga Electricity Supply Company Limited,
Station Main Road, Gulbarga, Karnataka.
13. Hubli Electricity Supply Company Limited,
Navanagar, PB Road, Hubli, Karnataka.
14. MESCOM Corporate Office,
Paradigm Plaza, AB Shetty Circle,
Mangalore-575 001, Karnataka.



15. Chamundeswari Electricity Supply Corporation Limited,
927, L J Avenue, Ground Floor, New Kantharaj Urs Road,
Saraswatipuram, Mysore-570009, Kanataka.
16. Transmission Corporation of Telangana Limited,
Vidhyut Sudha, Khairatabad,
Hyderabad-500082.
17. Waroora-Kurnool Transmission Limited,
6th Floor, Plot No. 19 & 20, Film City,
Sector 16 A, Gautam Buddha Nagar,
Noida, Uttar Pradesh-201301.

...Respondents

For Petitioner : Shri Anand K. Ganesan, Advocate, PGCIL
Ms. Swapna Seshadri, Advocate, PGCIL
Shri Jai Dhanani, Advocate, PGCIL
Shri S.S. Raju, PGCIL
Shri D.K. Biswal, PGCIL
Shri Ved Prakash Rastogi, PGCIL
Shri A.K. Verma, PGCIL

For Respondents : Shri Amit Kapur, Advocate, WKTL
Ms. Poonam Verma, Advocate, WKTL
Ms. Aparajita Upadhyay, Advocate, WKTL
Ms. Sakshi Kapoor, Advocate, WKTL
Ms. Gayatri Aryan, Advocate, WKTL
Shri Bhavesh Kundalia, WKTL
Shri S. Vallinayagam, Advocate
Dr. R. Kathiravan, TANGEDCO
Shri R. Ramalakshmi, TANGEDCO
Shri R. Srinivasan, TANGEDCO
Shri B. Rajeswari, TANGEDCO

ORDER

The Petitioner, Power Grid Corporation of India Limited, a deemed transmission licensee, has filed the instant petition for determination of the transmission tariff for the period from COD to 31.3.2024 under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (hereinafter referred to as “the 2019 Tariff Regulations”) in respect of 04 Nos. Line Bays (GIS) at (Hyderabad)



Maheshwaram 765/400 kV Sub-station, 02 Nos. Line Bays at Warangal 400/220 kV Sub-station and Balance items (PLCC, Telecom equipment and Line Terminal equipment such as LA, CVT & Wave Trap) at Kurnool 765/400 kV Sub-station (hereinafter referred to as the "transmission asset") under "Sub-station works associated with additional inter-regional AC link for import of power into Southern Region, i.e., Warora-Warangal and Chilakaluripeta-Hyderabad-Kurnool 765 kV Link" (hereinafter referred to as the transmission project") in Southern Region.

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

"1) Approve the proposed DOCO as 09.11.2019 under clause 5(2) of Tariff Regulation, 2019.

2) Approve the Transmission Tariff for the tariff block 2019-24 block for the assets covered under this petition.

3) Admit the capital cost as claimed in the Petition and approve the Additional Capitalisation incurred / projected to be incurred.

4) Allow the petitioner to recover the shortfall or refund the excess Annual Fixed Charges, on account of Return on Equity due to change in applicable Minimum Alternate/Corporate Income Tax rate as per the Income Tax Act, 1961 (as amended from time to time) of the respective financial year directly without making any application before the Commission as provided in Tariff Regulation 2019 as per para 8.3 above for respective block.

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

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

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

8) Allow the Petitioner to bill and recover GST on Transmission Charges separately from the respondents, if GST on transmission is levied at any rate in future. Further, any taxes including GST and duties including cess etc. imposed by any statutory/Govt./municipal authorities shall be allowed to be recovered from the beneficiaries.

9) Allow interim tariff in accordance with Regulation 10(3) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for purpose of inclusion



in the PoC charges.

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

Backdrop of the case

3. The facts of the case succinctly stated are as follows:

- a) The investment approval (IA) for the transmission project was accorded by Board of Directors of the Petitioner company vide Memorandum Ref.: C/CP/PA1617-03-0AB-IA027 dated 11.4.2017, at an estimated cost of ₹283.72 crore including IDC of ₹17.68 crore, at October, 2016 price level.
- b) The scope of the scheme was discussed and agreed in the 37th, 38th and 39th meeting of Standing Committee on Power System Planning of Southern Region held on 31.7.2014, 7.3.2015 and 29.12.2015 respectively. Further, the transmission scheme has also been agreed in 26th Meeting of SRPC held on 20.12.2014.
- c) The scope of work covered under "Sub-station works associated with additional inter-regional AC link for import of power into Southern Region i.e., Warora-Warangal and Chilakaluripeta-Hyderabad-Kurnool 765 kV Link" is as follows:

Sub-station:

- (i) 765/400 kV Hyderabad (Maheshwaram) GIS Sub-station (Extn.)
765 kV
4 Nos. Line Bays (GIS)
- (ii) 765/400 kV Kurnool Sub-station (Extn).
765 kV
 - a) 2*240 MVAR, 765 kV, Switchable Line Reactors (6x80MVAR, 765 kV, 1-Ph Shunt Reactor)
 - b) 2 Nos. Switchable Line Reactor Bays
 - c) 2 Nos. Line Bays
- (iii) 400/220 kV Warangal Sub-station (Extn).



400 kV

2 nos. Line Bays

- d) The transmission assets under the scope of the transmission project are as follows:

Asset	Actual/ Proposed COD	Petition No
"02 Nos. of 240 MVAR, 765 kV Switchable Line Reactors (6x80 MVAR, 765 kV, 1-Ph Shunt Reactor), along with Reactor Bays & 2 Nos 765 kV Line Bays excluding PLCC, Telecom equipment and Line Terminal equipment such as LA, CVT & Wave Trap" at 765/400 kV Kurnool Sub-station"	11.3.2019 (Actual)	248/TT/2019
04 Nos. Line Bays (GIS) at (Hyderabad) Maheshwaram 765/400 kV Sub-station, 02 Nos Line Bays at Warangal 400/220 kV Sub-station and Balance items (PLCC, Telecom equipment and Line Terminal equipment such as LA, CVT & Wave Trap) at Kurnool 765/400 kV Sub-station	9.11.2019 (Proposed)	Covered under instant petition

- e) As per IA dated 10.3.2017, transmission asset was scheduled to be put into commercial operation within 32 months from the date of the IA, i.e. by 9.11.2019. The Petitioner has claimed the COD of the transmission assets as 9.11.2019 under 5(2) of the 2019 Tariff Regulations.

- f) The Annual Fixed Charges (AFC) claimed by the Petitioner in respect of the transmission assets for the 2019-24 tariff period are as follows:

Particulars	(₹ in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	241.91	665.10	701.05	711.30	713.53
Interest on Loan	247.00	638.83	617.07	571.51	518.38
Return on Equity	255.99	704.24	742.60	753.53	755.92
O&M Expenses	14.51	39.00	40.10	40.04	39.54
Interest on Working Capital	76.02	199.93	206.83	214.01	221.41
Total	835.43	2247.10	2307.65	2290.39	2248.78

- g) The details of the Interest on Working Capital (IWC) claimed by the Petitioner in respect of the transmission assets are as follows:



(₹ in lakh)

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
O&M Expenses	16.10	16.66	17.24	17.83	18.45
Maintenance Spares	28.98	29.99	31.02	32.10	33.21
Receivables	261.07	277.04	284.50	282.38	276.40
Total	306.15	323.69	332.76	332.31	328.06
Rate of Interest (in %)	12.05	12.05	12.05	12.05	12.05
Interest on Working Capital	14.51	39.00	40.10	40.04	39.54

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

5. The Petitioner has served the petition on the Respondents and notice of this application has also been published in the newspapers in accordance with Section 64 of the Electricity Act 2003. No comments or suggestions have been received from the general public in response to the aforesaid notices published in the newspapers by the Petitioner. Tamil Nadu Generation and Distribution Limited (TANGEDCO) i.e. Respondent No. 4 has filed its reply vide affidavit dated 28.10.2021 and has mainly raised issues such as liability to pay transmission charges, Capital Cost, ACE, restriction of IDC and IEDC and sharing of transmission charges. PGCIL has filed its rejoinder vide affidavit dated 7.12.2021. Waroora-Kurnool Transmission Limited (WKTL), Respondent No. 17, has filed its reply vide affidavit dated 22.10.2021 and has raised issues such as extension of SCOD, delay in execution of the transmission asset due to force majeure events, admissibility of cost of PLCC, Telecom Equipment and line terminal equipment in the instant petition and recovery of tariff. PGCIL has filed its rejoinder vide affidavit dated 7.12.2021.

6. The hearing in this matter was held through video conference on 29.10.2021, 6.1.2022 and 7.7.2022 and the order was reserved.



7. Having heard the learned counsel for the Petitioner, TANGEDCO and WKTL and having perused the material on record, we proceed to dispose of the Petition.

8. This order is being passed in the light of the submissions made by the Petitioner in the petition, affidavit dated 15.9.2021 filed in response to technical validation letter, replies filed by TANGEDCO and WKTL, Petitioner's rejoinders thereto and Written Submissions filed by the parties and the other materials brought on the record.

9. The Petitioner initially included the balance items (PLCC, Telecom equipment and Line Terminal equipment such as LA, CVT and Wave Trap) at Kurnool 765/400 kV Sub-station under instant Petition.

10. WKTL has submitted that Petitioner had filed Petition No. 248/TT/2019 claiming transmission tariff in respect of different transmission assets which are part of the same sub-station work. In the aforesaid Petition No. 248/TT/2019, the cost of balance items at Kurnool 765/400 kV Sub-station, which are included in the scope of the present petition, i.e., PLCC, Telecom equipment and Line Terminal equipment such as LA, CVT and Wave Trap were excluded. In this regard, the Commission in order dated 25.2.2021 in Petition No. 248/TT/2019 held as follows:

"24. As the Petitioner has excluded the cost of PLCC, telecom equipment and Line Terminal equipment such as LA, CVT & Wave Trap at Kurnool 765/400 kV Substation, the capital cost as submitted by the Petitioner is considered for the purpose of computation of tariff in respect of the transmission asset covered in the instant petition. Since the Petitioner has voluntarily excluded the PLCC, Telecom equipment and Line Terminal equipment such as LA, CVT & Wave Trap at 765/400 kV Kurnool Sub-station which is part of 2 Nos Line Bays and their capital cost in the instant petition, the same would not be considered in the Petition No. 169/TT/2020."

11. WKTL has submitted that the Commission has already held that since the Petitioner has voluntarily excluded the cost of PLCC, Telecom equipment and Line



Terminal equipment such as LA, CVT and Wave Trap at 765/400 kV Kurnool Sub-station from the scope of Petition No. 248/TT/2019, the same should not be considered in Petition No. 169/TT/2020. Accordingly, the Petitioner cannot claim the cost of the same in the present petition.

12. In response, the Petitioner has submitted that the objections raised by WKTL regarding the Petitioner's claim of the cost of PLCC, telecom equipment and line terminal equipment at the Kurnool 765/400 kV Sub-station as part of the present petition are misconceived. It is stated that in pursuance of the 35th SRPC, it was decided that in order to reduce the voltages at Kurnool, early commissioning of the line reactors at Kurnool Sub-station under the instant project, intended for Hyderabad-Kurnool 765 D/C Line, was agreed. In the 35th SRPC, it was discussed that due to over voltage in the Southern Region there were frequent trippings of 765 kV Nizamabad-Maheshwaram, 765 kV Kurnool-Kadapa and 765 kV Kadapa-Thiruvalam lines which was due to stress on EHV equipment's due to frequent switching. In this regard, SRLDC issued codes on daily basis for taking these 765 kV lines (765 kV Nizamabad-Maheshwaram and 765 Kurnool-Kadapa-Thiruvalam) out of service during night and taking them back into service early morning. Further, PLCC and telecom equipment are required for transmission line protection and data transfer appreciation and thus cannot be utilized in absence of transmission line.

13. The Petitioner vide affidavit dated 18.7.2022 has submitted that the capital cost of balance items (PLCC, Telecom equipment and Line Terminal equipment such as LA, CVT & Wave Trap) at Kurnool 765/400 kV Sub-station is not claimed in the instant Petition and the same has been claimed under true-up Petition No. 23/TT/2022.



14. We have considered the submissions of WKTL and Petitioner. The Commission has allowed cost of PLCC, telecom equipment and line terminal equipment such as LA, CVT and Wave Trap in order dated 23.9.2022 in Petition No. 23/TT/2022. The relevant portion of the order dated 23.9.2022 in Petition No. 23/TT/2022 is as follows:

“20. The instant petition was heard on 26.7.2022. During the course of hearing, the Petitioner has submitted that while claiming tariff for 2 numbers of line bays at Kurnool Sub-station, the Petitioner has excluded PLCC, Telecom equipment and Line Terminal equipment such as LA, CVT & Wave Trap at 765/400 kV Kurnool Sub-station, as they were claimed in Petition No.169/TT/2020. However, the Petitioner during the hearing dated 7.7.2022 in Petition No. 169/TT/2020 has submitted that liberty may be given to withdraw the claim regarding cost of PLCC equipment at Kurnool Sub-station and amend the truing up tariff petition of Kurnool Sub-station. The Petitioner has submitted that the transmission asset in the instant petition will include the excluded items like PLCC, telecom equipment and line terminal equipment such as LA, CVT and Wave Trap.”

15. In view of the above discussion, the submissions of WKTL has no leg to stand.

Date of Commercial Operation (“COD”)

16. The Petitioner has claimed COD of the transmission assets as 9.11.2019 under 5(2) of the 2019 Tariff Regulations as the associated transmission line under the scope WKTL is not ready. The Petitioner has submitted that the power flow in the Petitioner’s scope of work could not be achieved due to non-readiness of inter-connected transmission lines of WKTL. The notice for intimation of charging the transmission asset has been served on WKTL. Accordingly, the Petitioner has invoked approval of COD of the transmission asset under Regulation 5(2) of the 2019 Tariff Regulations.

17. Regulation 5 of 2019 Tariff Regulations provides as follows:

“5. Date of Commercial Operation: (1) The date of commercial operation of a generating station or unit thereof or a transmission system or element thereof and associated communication system shall be determined in accordance with the provisions of the Grid Code.

(2) In case the transmission system or element thereof executed by a transmission licensee is ready for commercial operation but the interconnected generating station or the transmission system of other transmission licensee as per the agreed project implementation schedule is not ready for commercial operation, the transmission



licensee may file petition before the Commission for approval of the date of commercial operation of such transmission system or element thereof:

Provided that the licensee seeking the approval of the date of commercial operation under this transmission clause shall give prior notice of at least one month, to the generating company or the other transmission licensee and the long term customers of its transmission system, as the case may be, regarding the date of commercial operation:

Provided further that the transmission licensee seeking the approval of the date of commercial operation of the transmission system under this clause shall be required to submit the following documents along with the petition:

- (a) Energisation certificate issued by the Regional Electrical Inspector under Central Electricity Authority;*
- (b) Trial operation certificate issued by the concerned RLDC for charging element with or without electrical load;*
- (c) Implementation Agreement, if any, executed by the parties;*
- (d) Minutes of the coordination meetings or related correspondences regarding the monitoring of the progress of the generating station and transmission systems;*
- (e) Notice issued by the transmission licensee as per the first proviso under this clause and the response;*
- (f) Certificate of the CEO or MD of the company regarding the completion of the transmission system including associated communication system in all respects.”*

18. In support of the COD of the transmission asset, the Petitioner has submitted CEA Energisation Certification Certificates dated 16.9.2019 and 28.6.2019, 'No-load' RLDC Charging Certificate dated 16.1.2020 certifying that completion of trial operation on 9.11.2019 and CMD Certificate in accordance with Regulation 5(2) of the 2019 Tariff Regulations. As per Regulation 5(2) of tariff Regulations, the Petitioner shall have to give prior notice of at least one month, to the transmission licensee regarding the date of commercial operation. The Petitioner vide letter dated 9.10.2019 has issued prior notice to WKTL and informed that the instant transmission asset will be ready for charging on 9.11.2019.

19. We have considered the submissions of the Petitioner. In view of the self-declaration of COD letter, CEA Energisation Certificate, 'No-load' RLDC Charging Certificate and CMD Certificate submitted by the Petitioner and notice to WKTL, COD



of the transmission asset is hereby approved as 9.11.2019 under Regulation 5(2) of the 2019 Tariff Regulations.

Capital Cost

20. Regulation 19 of the 2019 Tariff Regulations provides as follows:

“19. Capital Cost: (1) *The Capital cost of the generating station or the transmission system, as the case may be, as determined by the Commission after prudence check in accordance with these regulations shall form the basis for determination of tariff for existing and new projects.*

(2) *The Capital Cost of a new project shall include the following:*

- (a) *The expenditure incurred or projected to be incurred up to the date of commercial operation of the project;*
- (b) *Interest during construction and financing charges, on the loans (i) being equal to 70% of the funds deployed, in the event of the actual equity in excess of 30% of the funds deployed, by treating the excess equity as normative loan, or (ii) being equal to the actual amount of loan in the event of the actual equity less than 30% of the funds deployed;*
- (c) *Any gain or loss on account of foreign exchange risk variation pertaining to the loan amount availed during the construction period;*
- (d) *Interest during construction and incidental expenditure during construction as computed in accordance with these regulations;*
- (e) *Capitalised initial spares subject to the ceiling rates in accordance with these regulations;*
- (f) *Expenditure on account of additional capitalization and de-capitalisation determined in accordance with these regulations;*
- (g) *Adjustment of revenue due to sale of infirm power in excess of fuel cost prior to the date of commercial operation as specified under Regulation 7 of these regulations;*
- (h) *Adjustment of revenue earned by the transmission licensee by using the assets before the date of commercial operation;*
- (i) *Capital expenditure on account of ash disposal and utilization including handling and transportation facility;*
- (j) *Capital expenditure incurred towards railway infrastructure and its augmentation for transportation of coal upto the receiving end of the generating station but does not include the transportation cost and any other appurtenant cost paid to the railway;*
- (k) *Capital expenditure on account of biomass handling equipment and facilities, for co-firing;*
- (l) *Capital expenditure on account of emission control system necessary to meet the revised emission standards and sewage treatment plant;*
- (m) *Expenditure on account of fulfilment of any conditions for obtaining environment clearance for the project;*
- (n) *Expenditure on account of change in law and force majeure events; and*
- (o) *Capital cost incurred or projected to be incurred by a thermal generating station, on account of implementation of the norms under Perform, Achieve and Trade (PAT) scheme of Government of India shall be considered by the Commission subject to sharing of benefits accrued under the PAT scheme with the*



beneficiaries.

- (3) *The Capital cost of an existing project shall include the following:*
- (a) *Capital cost admitted by the Commission prior to 1.4.2019 duly tried up by excluding liability, if any, as on 1.4.2019;*
 - (b) *Additional capitalization and de-capitalization for the respective year of tariff as determined in accordance with these regulations;*
 - (c) *Capital expenditure on account of renovation and modernisation as admitted by this Commission in accordance with these regulations;*
 - (d) *Capital expenditure on account of ash disposal and utilization including handling and transportation facility;*
 - (e) *Capital expenditure incurred towards railway infrastructure and its augmentation for transportation of coal upto the receiving end of generating station but does not include the transportation cost and any other appurtenant cost paid to the railway; and*
 - (f) *Capital cost incurred or projected to be incurred by a thermal generating station, on account of implementation of the norms under Perform, Achieve and Trade (PAT) scheme of Government of India shall be considered by the Commission subject to sharing of benefits accrued under the PAT scheme with the beneficiaries.*
- (4) *The capital cost in case of existing or new hydro generating station shall also include:*
- (a) *cost of approved rehabilitation and resettlement (R&R) plan of the project in conformity with National R&R Policy and R&R package as approved; and*
 - (b) *cost of the developer's 10% contribution towards Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY) and Deendayal Upadhyaya Gram Jyoti Yojana (DDUGJY) project in the affected area.*
- (5) *The following shall be excluded from the capital cost of the existing and new projects:*
- (a) *The assets forming part of the project, but not in use, as declared in the tariff petition;*
 - (b) *De-capitalised Assets after the date of commercial operation on account of replacement or removal on account of obsolescence or shifting from one project to another project:*
- Provided that in case replacement of transmission asset is recommended by Regional Power Committee, such asset shall be de-capitalised only after its redeployment;*
- Provided further that unless shifting of an asset from one project to another is of permanent nature, there shall be no de-capitalization of the concerned assets.*
- (c) *In case of hydro generating stations, any expenditure incurred or committed to be incurred by a project developer for getting the project site allotted by the State Government by following a transparent process;*
 - (d) *Proportionate cost of land of the existing project which is being used for generating power from generating station based on renewable energy; and*
 - (e) *Any grant received from the Central or State Government or any statutory body or authority for the execution of the project which does not carry any liability of repayment.”*



21. The Petitioner vide Auditor's Certificate dated 25.7.2022 has claimed the following Capital Cost incurred as on COD and Additional Capital Expenditure (ACE) projected to be incurred up to 31.3.2024, in respect of transmission asset:

(₹ in lakh)						
FR AppORTIONED Approved Cost	Capital Cost as on COD	ACE 2019-24				Estimated Completion Cost
		2019-20	2020-21	2021-22	2022-23	
16883.37	11183.69	822.17	1022.41	303.28	84.74	13416.29

22. TANGEDCO has submitted that the Petitioner has stated the reasons for item-wise cost variation between apportioned approved cost (FR) and estimated completion cost are mentioned in Form-5 whereas the detailed reasons for item-wise cost variation are not enclosed with Form-5.

23. In response, the Petitioner has submitted that the salient reasons for item-wise cost variation have already been explained in the petition itself.

24. We have considered the submissions of the Petitioner and TANGEDCO. It is observed that the estimated completion of ₹13416.29 is within the FR apportioned approved cost of ₹16883.37. Thus, the estimated completion cost is lower than the approved cost by an amount of ₹3467.08 lakh. As such, there is no cost over-run in case of the instant transmission asset.

25. **RE- No Time Over-Run:-** As per the IA dated 10.3.2017, the transmission asset was scheduled to be put into commercial operation within 32 months from the date of IA. Accordingly, the scheduled COD is 9.11.2019 and the COD of the transmission asset has been approved as 9.11.2019 under Regulation 5(2) of the 2019



Tariff Regulations. Therefore, there is no time over-run in case of the transmission asset.

Interest During Construction (“IDC”) and Incidental Expenditure During Construction (“IEDC”)

25. The Petitioner has claimed IDC of ₹446.94 lakh in respect of the transmission assets and has submitted the Auditor’s Certificates dated 25.7.2022 in support of the same. The Petitioner has submitted the computation of IDC along with year-wise details of the IDC discharged.

26. The loan details submitted in Form-9C for 2019-24 tariff period and IDC computation sheet have been considered for the purpose of IDC calculation on cash basis and accrued basis. The un-discharged IDC as on COD has been considered as ACE during the year in which it has been discharged.

27. TANGEDCO has submitted that when the delay is attributable to WKTL, the IDC and IEDC for the delayed period (from SCOD to actual COD of the asset) has to be recovered from the WKTL bilaterally excluding from the capital cost in line with the Commission’s order in similar cases. Further, the LD amount if any recovered from the WKTL has to be deducted in the capital cost along with the IDC and IEDC for the delayed period. As per the provision under Regulation 21(5) and 22(1) of Tariff Regulation 2019, the IDC and IEDC corresponding to the delayed period can be allowed only if the delay is due to uncontrollable factors, whereas, in the instant case delay is on account of the TBCB licensee and it is not covered under uncontrollable factors.



28. In response, the Petitioner has submitted that there is no time over-run as the Petitioner has executed and implemented the present assets as per the commissioning schedule of WKTL which worked out to November, 2019. There is no time over-run in case of the transmission assets and the commissioning schedule was 9.11.2019, by which date the assets were made ready for operation. There is no application of either Regulations 21(5) and 22(1) of the 2019 Tariff Regulations. Further, the Petitioner does not have any contract with WKTL to recover any liquidated damages. In fact, it is TANGEDCO and the other Southern Region beneficiaries that had entered into a transmission service agreement/ TSA with WKTL, which has prescribed for levy of LD for delay in achievement of COD of WKTL.

29. We have considered the submissions of the Petitioner and TANGEDCO. There is no time over-run in case of the transmission asset. The sharing of transmission charges is discussed in the later part of this order.

30. Accordingly, based on the information furnished by the Petitioner, IDC considered, is as follows:

(₹ in lakh)

IDC as per Auditor's Certificate	IDC Admissible	IDC disallowed due to Computational Difference	IDC Discharged as on COD	IDC Undischarged as on COD	IDC Discharge During	
					2019-20	2020-21
A	B	C=A-B	D	E=B-D	F	G
446.94	446.94	0.00	388.64	58.30	22.25	36.05

31. The Petitioner has claimed IEDC of ₹307.08 lakh and has submitted Auditor's Certificate in support of the same. The Petitioner has also submitted that entire IEDC of ₹307.08 has been discharged as on COD in respect of the transmission assets and the same is allowed.



Initial Spares

32. Regulation 23(d) of the 2019 Tariff Regulations specify the ceiling norms of Initial Spares in respect of transmission asset as follows:

- “(d) Transmission System*
- i. Transmission line: 1.00%*
 - ii. Transmission sub-station*
 - Green Field: 4.00%*
 - Brown Field: 6.00%*
 - iii. Series Compensation devices and HVDC Station: 4.00%*
 - iv. Gas Insulated Sub-station (GIS)*
 - Green Field: 5.00%*
 - Brown Field: 7.00%*
 - v. Communication System: 3.50%*
 - vi. Static Synchronous Compensator: 6.00%”*

33. The Petitioner has claimed the following Initial Spares:

Plant & Machinery Cost up to cut-off date (excluding IDC and IEDC) (₹ in lakh)	Initial Spares Claimed (₹ in lakh)	Ceiling limit (%)
12197.32	547.81	6

34. We have considered the submissions of the Petitioner. It is observed the Initial Spares claimed are within the permissible limits in accordance to the 2019 Tariff Regulations and hence allowed as follows:

Plant & machinery cost up to cut-off date (excluding IDC and IEDC as per Auditor's Certificate)	Ceiling Limit (in %)	Allowable Initial Spares worked out D = [(A-B)*C / (100-C)]	Excess Initial Spares (₹ in lakh)	Initial Spares allowed (₹ in lakh)
12197.32	6	743.59	0.00	547.81



Capital Cost allowed as on COD

35. Accordingly, the capital cost allowed as on COD is as follows:

Capital Cost as on COD as per Auditor's Certificate	Less: IDC as on COD due to		IEDC disallowed due to time over-run	Excess Initial Spares	Capital Cost as on COD (on cash basis)
	IDC Disallowed	Un-discharged IDC			
11183.69	0.00	58.30	0.00	0.00	11125.39

Additional Capital Expenditure ("ACE")

36. Regulations 24 and 25 of the 2019 Tariff Regulations provide as follows:

"24. Additional Capitalisation within the original scope and upto the cut-off date

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

- (a) Undischarged liabilities recognized to be payable at a future date;*
- (b) Works deferred for execution;*
- (c) Procurement of initial capital spares within the original scope of work, in accordance with the provisions of Regulation 23 of these regulations;*
- (d) Liabilities to meet award of arbitration or for compliance of the directions or order of any statutory authority or order or decree of any court of law;*
- (e) Change in law or compliance of any existing law; and*
- (f) Force Majeure events:*

Provided that in case of any replacement of the assets, the additional capitalization shall be worked out after adjusting the gross fixed assets and cumulative depreciation of the assets replaced on account of de-capitalization.

(2) The generating company or the transmission licensee, as the case may be shall submit the details of works asset wise/work wise included in the original scope of work along with estimates of expenditure, liabilities recognized to be payable at a future date and the works deferred for execution."

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

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

- a) Liabilities to meet award of arbitration or for compliance of the directions or order of any statutory authority, or order or decree of any court of law;*
- b) Change in law or compliance of any existing law;*



c) *Deferred works relating to ash pond or ash handling system in the original scope of work;*

d) *Liability for works executed prior to the cut-off date;*

e) *Force Majeure events;*

f) *Liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments; and*

g) *Raising of ash dyke as a part of ash disposal system.*

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

(a) *The useful life of the assets is not commensurate with the useful life of the project and such assets have been fully depreciated in accordance with the provisions of these regulations.*

(b) *The replacement of the asset or equipment is necessary on account of change in law or Force Majeure conditions;*

(c) *The replacement of such asset or equipment is necessary on account of*

(d) *The replacement of such asset or equipment has otherwise been allowed by the Commission.”*

37. The Petitioner has projected ACE for 2019-24 tariff period on account of balance and retention payments within the cut-off. The details of the projected ACE as per Auditor’s Certificate are as follows:

(₹ in lakh)

ACE			
2019-20	2020-21	2021-22	2022-23
822.17	1022.41	303.28	84.74

38. TANGEDCO has submitted that the Petitioner has claimed ACE for the year 2019-20 and 2020-21 stating that the ACE projected to be incurred is mainly on account of balance and retention payments, however, the details given for the retention and payment do not substantiate the claim of the Petitioner. The Petitioner



has not disclosed the actual amount withheld by it on account of balance and retention payments for the period 2019-2020. However, the Petitioner has not submitted the reasons for withholding the amount and the name of contractors. The Petitioner is required to prove the claim made by it. In absence of the justification, the Commission is requested to restrict the claim made by the Petitioner.

39. In response, the Petitioner has submitted that TANGEDCO is misquoting the Regulations which deal with works deferred for execution. At para 7.4 of the Petition, the Petitioner has clearly stated that its claim of ACE is under Regulation 24(1)(a) and only on account of balance/retention payments. Complete details of ACE including details of the contractor, the outstanding liability as on COD, the discharge of liability and the unexecuted work recognized have been provided in response to the technical validation letter.

40. We have considered the rival submissions. ACE claimed on account of balance and retention payments is allowed under Regulations 24(1)(a) of the 2019 Tariff Regulations. The undischarged IDC as on COD has been allowed as ACE. ACE allowed in respect of the transmission asset is as follows:

(₹ in lakh)

Particulars	ACE			
	2019-20	2020-21	2021-22	2022-23
	822.17	1022.41	303.28	84.74
Add: IDC Discharged	22.25	36.05	0.00	0.00
Total ACE allowed	844.42	1058.46	303.28	84.74

Capital Cost for 2019-24 Period

41. Accordingly, the capital cost of the transmission asset considered for 2014-19 tariff period is as follows:



(₹ in lakh)

FR Apportioned Approved Cost	Cost as on COD	ACE 2019-24				Total Cost as on 31.3.2024
		2019-20	2020-21	2021-22	2022-23	
16883.37	11125.39	844.42	1058.46	303.28	84.74	13416.29

Debt-Equity Ratio

42. Regulations 18 of the 2019 Tariff Regulations provides as follows:

“18. Debt-Equity Ratio: (1) For new projects, the debt-equity ratio of 70:30 as on date of commercial operation shall be considered. If the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan:

Provided that:

- i. where equity actually deployed is less than 30% of the capital cost, actual equity shall be considered for determination of tariff:
- ii. the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment:
- iii. any grant obtained for the execution of the project shall not be considered as a part of capital structure for the purpose of debt: equity ratio.

Explanation.-The premium, if any, raised by the generating company or the transmission licensee, as the case may be, while issuing share capital and investment of internal resources created out of its free reserve, for the funding of the project, shall be reckoned as paid up capital for the purpose of computing return on equity, only if such premium amount and internal resources are actually utilised for meeting the capital expenditure of the generating station or the transmission system.

(2) The generating company or the transmission licensee, as the case may be, shall submit the resolution of the Board of the company or approval of the competent authority in other cases regarding infusion of funds from internal resources in support of the utilization made or proposed to be made to meet the capital expenditure of the generating station or the transmission system including communication system, as the case may be.

(3) In case of the generating station and the transmission system including communication system declared under commercial operation prior to 1.4.2019, debt: equity ratio allowed by the Commission for determination of tariff for the period ending 31.3.2019 shall be considered:

Provided that in case of a generating station or a transmission system including communication system which has completed its useful life as on or after 1.4.2019, if the equity actually deployed as on 1.4.2019 is more than 30% of the capital cost, equity in excess of 30% shall not be taken into account for tariff computation;



Provided further that in case of projects owned by Damodar Valley Corporation, the debt: equity ratio shall be governed as per sub-clause (ii) of clause (2) of Regulation 72 of these regulations.

(4) In case of the generating station and the transmission system including communication system declared under commercial operation prior to 1.4.2019, but where debt: equity ratio has not been determined by the Commission for determination of tariff for the period ending 31.3.2019, the Commission shall approve the debt: equity ratio in accordance with clause (1) of this Regulation.

(5) Any expenditure incurred or projected to be incurred on or after 1.4.2019 as may be admitted by the Commission as additional capital expenditure for determination of tariff, and renovation and modernisation expenditure for life extension shall be serviced in the manner specified in clause (1) of this Regulation.

(6) Any expenditure incurred for the emission control system during the tariff period as may be admitted by the Commission as additional capital expenditure for determination of supplementary tariff, shall be serviced in the manner specified in clause (1) of this Regulation.”

43. The details of debt-equity of the transmission asset considered for the purpose of computation of tariff for 2019-24 period is as follows:

Funding	Capital Cost as on COD (₹ in lakh)	(in %)	Total Capital Cost as on 31.3.2024 (₹ in lakh)	(in %)
Debt	7787.77	70.00	9391.59	70.00
Equity	3337.62	30.00	4024.70	30.00
Total	11125.39	100.00	13416.29	100.00

Depreciation

44. Regulation 33 of the 2019 Tariff Regulations provides as follows:

“33. Depreciation: (1) Depreciation shall be computed from the date of commercial operation of a generating station or unit thereof or a transmission system or element thereof including communication system. In case of the tariff of all the units of a generating station or all elements of a transmission system including communication system for which a single tariff needs to be determined, the depreciation shall be computed from the effective date of commercial operation of the generating station or the transmission system taking into consideration the depreciation of individual units:

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

(2) The value base for the purpose of depreciation shall be the capital cost of the asset



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

(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 the salvage value for IT equipment and software shall be considered as NIL and 100% value of the assets shall be considered depreciable;

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

Provided also 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 unit or transmission system as the case may be, shall not be allowed to be recovered at a later stage during the useful life or 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-I** to these regulations for the assets of the generating station and transmission system:

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

(6) In case of the existing projects, the balance depreciable value as on 1.4.2019 shall be worked out by deducting the cumulative depreciation as admitted by the Commission upto 31.3.2019 from the gross depreciable value of the assets.

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

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

(9) Where the emission control system is implemented within the original scope of the generating station and the date of commercial operation of the generating station or unit thereof and the date of operation of the emission control system are the same,



depreciation of the generating station or unit thereof including the emission control system shall be computed in accordance with Clauses (1) to (8) of this Regulation.

(10) Depreciation of the emission control system of an existing or a new generating station or unit thereof where the date of operation of the emission control system is subsequent to the date of commercial operation of the generating station or unit thereof, shall be computed annually from the date of operation of such emission control system based on straight line method, with salvage value of 10%, over a period of-

- a) twenty five years, in case the generating station or unit thereof is in operation for fifteen years or less as on the date of operation of the emission control system; or
- b) balance useful life of the generating station or unit thereof plus fifteen years, in case the generating station or unit thereof is in operation for more than fifteen years as on the date of operation of the emission control system; or
- c) ten years or a period mutually agreed by the generating company and the beneficiaries, whichever is higher, in case the generating station or unit thereof has completed its useful life.”

45. We have considered the submissions of the Petitioner. The IT equipment has been considered as part of the Gross Block and depreciated using Weighted Average Rate of Depreciation (WAROD). WAROD at Annexure-I has been worked out after taking into account the depreciation rates of IT and non-IT assets as specified in the 2019 Tariff Regulations. The salvage value of IT equipment has been considered nil, i.e. IT asset has been considered as 100% depreciable. Accordingly, the depreciation allowed in respect of the transmission asset is as follows:

(₹ in lakh)						
	Particulars	2019-20 (Pro-rata for 144 days)	2020-21	2021-22	2022-23	2023-24
A	Opening Gross Block	11125.39	11969.81	13028.27	13331.55	13416.29
B	Addition during the year 2019-24 due to projected ACE	844.42	1058.46	303.28	84.74	0.00
C	Closing Gross Block (A+B)	11969.81	13028.27	13331.55	13416.29	13416.29
D	Average Gross Block (A+C)/2	11547.60	12499.04	13179.91	13373.92	13416.29
E	Average Gross Block (90% depreciable assets)	11510.29	12461.63	13142.44	13336.45	13378.82
F	Average Gross Block (100% depreciable assets)	37.31	37.41	37.47	37.47	37.47



	Particulars	2019-20 (Pro-rata for 144 days)	2020-21	2021-22	2022-23	2023-24
G	Depreciable value (excluding IT equipment and software) (E*90%)	10359.26	11215.46	11828.19	12002.80	12040.93
H	Depreciable value of IT equipment and software	37.31	37.41	37.47	37.47	37.47
I	Total Depreciable Value (G+H)	10396.57	11252.87	11865.66	12040.27	12078.40
J	Weighted average rate of Depreciation (WAROD) (in %)	5.32	5.32	5.32	5.32	5.32
K	Lapsed useful life at the beginning of the year (Year)	0.00	0.00	1.00	2.00	3.00
L	Balance useful life at the beginning of the year (Year)	25.00	25.00	24.00	23.00	22.00
M	Depreciation during the year(D*J)	241.91	665.10	701.06	711.30	713.54
N	Aggregate Cumulative Depreciation at the end of the year	241.91	907.01	1608.06	2319.36	3032.90
O	Remaining Aggregate Depreciable Value at the end of the year(I-N)	10154.66	10345.87	10257.60	9720.91	9045.50

Interest on Loan (IoL)

46. Regulation 32 of the 2019 Tariff Regulations provides as follows:

“32. Interest on loan capital: (1) The loans arrived at in the manner indicated in Regulation 18 of these regulations shall be considered as gross normative loan for calculation of interest on loan.

(2) The normative loan outstanding as on 1.4.2019 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2019 from the gross normative loan.

(3) The repayment for each of the year of the tariff period 2019-24 shall be deemed to be equal to the depreciation allowed for the corresponding year/period. In case of de-capitalization of assets, the repayment shall be adjusted by taking into account cumulative repayment on a pro rata basis and the adjustment should not exceed cumulative depreciation recovered upto the date of de-capitalisation of such asset.

(4) Notwithstanding any moratorium period availed by the generating company or the transmission licensee, as the case may be, the repayment of loan shall be considered from the first year of commercial operation of the project and shall be equal to the depreciation allowed for the year or part of the year.



(5) The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio after providing appropriate accounting adjustment for interest capitalized:

Provided that if there is no actual loan for a particular year but normative loan is still outstanding, the last available weighted average rate of interest shall be considered;

Provided further that if the generating station or the transmission system, as the case may be, does not have actual loan, then the weighted average rate of interest of the generating company or the transmission licensee as a whole shall be considered.

(5 a) The rate of interest on loan for installation of emission control system shall be the weighted average rate of interest of actual loan portfolio of the emission control system or in the absence of actual loan portfolio, the weighted average rate of interest of the generating company as a whole shall be considered.

(6) The interest on loan shall be calculated on the normative average loan of the year by applying the weighted average rate of interest.

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

47. The weighted average rate of interest of IoL has been considered on the basis of the rates prevailing as on 1.4.2019. The Petitioner has prayed that the change in interest rate due to floating rate of interest applicable, if any, during 2019-24 tariff period will be adjusted. The floating rate of interest, if any, shall be considered at the time of true-up. In view of above, IoL has been worked out in accordance with Regulation 32 of the 2019 Tariff Regulations. IoL allowed in respect of the transmission asset is follows:

(₹ in lakh)

	Particular	2019-20 Pro-rata for 144 days	2020-21	2021-22	2022-23	2023-24
A	Gross Normative Loan	7787.77	8379.05	9119.98	9332.27	9391.59
B	Cumulative Repayments upto Previous Year	0.00	241.91	907.01	1608.06	2319.36
C	Net Loan-Opening (A-B)	7787.77	8137.14	8212.97	7724.21	7072.23
D	Addition due to Additional Capitalization	591.28	740.92	212.30	59.32	0.00



	Particular	2019-20 Pro-rata for 144 days	2020-21	2021-22	2022-23	2023-24
E	Repayment during the year	241.91	665.10	701.06	711.30	713.54
F	Net Loan-Closing (C+D-E)	8137.14	8212.97	7724.21	7072.23	6358.69
G	Average Loan (C+F)/2	7962.46	8175.06	7968.59	7398.22	6715.46
H	Weighted Average Rate of Interest on Loan (in %)	7.885	7.814	7.744	7.725	7.719
I	Interest on Loan (G*H)	247.00	638.83	617.07	571.50	518.37

Return on Equity (RoE)

48. Regulation 30 and Regulation 31 of the 2019 Tariff Regulations provides as follows:

“30. Return on Equity: (1) Return on equity shall be computed in rupee terms, on the equity base determined in accordance with Regulation 18 of these regulations.

(2) Return on equity shall be computed at the base rate of 15.50% for thermal generating station, transmission system including communication system and run-of-river hydro generating station, and at the base rate of 16.50% for the storage type hydro generating stations including pumped storage hydro generating stations and run-of-river generating station with pondage:

Provided that return on equity in respect of additional capitalization after cut-off date beyond the original scope, excluding additional capitalization on 7 account of emission control system, shall be computed at the weighted average rate of interest on actual loan portfolio of the generating station or the transmission system or in the absence of actual loan portfolio of the generating station or the transmission system, the weighted average rate of interest of the generating company or the transmission licensee, as the case may be, as a whole shall be considered, subject to ceiling of 14%.

Provided further that:

- i. *In case of a new project, the rate of return on equity shall be reduced by 1.00% for such period as may be decided by the Commission, if the generating station or transmission system is found to be declared under commercial operation without commissioning of any of the Restricted Governor Mode Operation (RGMO) or Free Governor Mode Operation (FGMO), data telemetry, communication system up to load dispatch centre or protection system based on the report submitted by the respective RLDC;*
- ii. *in case of existing generating station, as and when any of the requirements under (i) above of this Regulation are found lacking based on the report submitted by the concerned RLDC, rate of return on equity shall be reduced by 1.00% for the period for which the deficiency continues;*
- iii. *in case of a thermal generating station, with effect from 1.4.2020:*
 - a) *rate of return on equity shall be reduced by 0.25% in case of failure to achieve the ramp rate of 1% per minute;*
 - b) *an additional rate of return on equity of 0.25% shall be allowed for every incremental ramp rate of 1% per minute achieved over and above the ramp rate of 1% per minute, subject to ceiling of additional rate of return*



on equity of 1.00%:

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

(3) The return on equity in respect of additional capitalization on account of emission control system shall be computed at the base rate of one year marginal cost of lending rate (MCLR) of the State Bank of India as on 1st April of the year in which the date of operation (ODe) occurs plus 350 basis point, subject to ceiling of 14%;”

Regulation 31 of the 2019 Tariff Regulations provides as under:-

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

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

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

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

Illustration-

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

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

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

- (a) Estimated Gross Income from generation or transmission business for FY 2019-20 is Rs 1,000 crore;*
- (b) Estimated Advance Tax for the year on above is Rs 240 crore;*
- (c) Effective Tax Rate for the year 2019-20 = Rs 240 Crore/Rs 1000 Crore = 24%;*
- (d) Rate of return on equity = 15.50 / (1 - 0.24) = 20.395%.*

(3) The generating company or the transmission licensee, as the case may be, shall



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

49. The Petitioner has submitted that MAT rate is applicable to the Petitioner's company. We have considered the submissions of the Petitioner. The MAT rate applicable in 2019-20 has been considered for the purpose of RoE, which shall be trued-up with actual tax rate in accordance with Regulation 31(3) of the 2019 Tariff Regulations. The RoE allowed under Regulation 30 of the 2019 Tariff Regulations is as follows:

(₹ in lakh)						
	Particulars	2019-20 Pro-rata for 144 days	2020-21	2021-22	2022-23	2023-24
A	Opening Equity	3337.62	3590.75	3908.29	3999.27	4024.70
B	Addition due to ACE	253.14	317.54	90.98	25.42	0.00
C	Closing Equity (A+B)	3590.75	3908.29	3999.27	4024.70	4024.70
D	Average Equity (A+C)/2	3464.18	3749.52	3953.78	4011.98	4024.70
E	Return on Equity (Base Rate) (in %)	15.500	15.500	15.500	15.500	15.500
F	Tax Rate applicable (in %)	17.472	17.472	17.472	17.472	17.472
G	Rate of Return on Equity (Pre-tax)	18.782	18.782	18.782	18.782	18.782
H	Return on Equity (Pre-tax) (D*G)	255.99	704.24	742.60	753.53	755.92

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

50. Regulation 35(3)(a) and Regulation 35(4) of the 2019 Tariff Regulations provide as follows:

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

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24



Norms for sub-station Bays (Rs Lakh per bay)					
765 kV	45.01	46.60	48.23	49.93	51.68
400 kV	32.15	33.28	34.45	35.66	36.91
220 kV	22.51	23.30	24.12	24.96	25.84
132 kV and below	16.08	16.64	17.23	17.83	18.46
Norms for Transformers (Rs Lakh per MVA)					
765 kV	0.491	0.508	0.526	0.545	0.564
400 kV	0.358	0.371	0.384	0.398	0.411
220 kV	0.245	0.254	0.263	0.272	0.282
132 kV and below	0.245	0.254	0.263	0.272	0.282
Norms for AC and HVDC lines (Rs Lakh per km)					
Single Circuit (Bundled Conductor with six or more sub-conductors)	0.881	0.912	0.944	0.977	1.011
Single Circuit (Bundled conductor with four sub-conductors)	0.755	0.781	0.809	0.837	0.867
Single Circuit (Twin & Triple Conductor)	0.503	0.521	0.539	0.558	0.578
Single Circuit (Single Conductor)	0.252	0.260	0.270	0.279	0.289
Double Circuit (Bundled conductor with four or more sub-conductors)	1.322	1.368	1.416	1.466	1.517
Double Circuit (Twin & Triple Conductor)	0.881	0.912	0.944	0.977	1.011
Double Circuit (Single Conductor)	0.377	0.391	0.404	0.419	0.433
Multi Circuit (Bundled Conductor with four or more sub-conductor)	2.319	2.401	2.485	2.572	2.662
Multi Circuit (Twin & Triple Conductor)	1.544	1.598	1.654	1.713	1.773
Norms for HVDC stations					
HVDC Back-to-Back stations (Rs Lakh per 500 MW) (Except Gazuwaka BTB)	834	864	894	925	958
Gazuwaka HVDC Back-to-Back station (Rs. Lakh per 500 MW)	1,666	1,725	1,785	1,848	1,913
500 kV Rihand-Dadri HVDC bipole scheme (Rs Lakh) (1500 MW)	2,252	2,331	2,413	2,498	2,586
±500 kV Talcher- Kolar HVDC bipole scheme (Rs Lakh) (2000 MW)	2,468	2,555	2,645	2,738	2,834
±500 kV Bhiwadi-Balia HVDC bipole scheme (Rs Lakh) (2500 MW)	1,696	1,756	1,817	1,881	1,947
±800 kV, Bishwanath-Agra HVDC bipole scheme (Rs Lakh)(3000 MW)	2,563	2,653	2,746	2,842	2,942

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

Provided further that:

- (i) the operation and maintenance expenses for new HVDC bi-pole schemes commissioned after 1.4.2019 for a particular year shall be allowed pro-rata on the basis of normative rate of operation and maintenance expenses of similar HVDC bi-pole scheme for the corresponding year of the tariff period;
- (ii) the O&M expenses norms for HVDC bi-pole line shall be considered as Double Circuit quad AC line;
- (iii) the O&M expenses of ±500 kV Mundra-Mohindergarh HVDC bipole scheme (2500 MW) shall be allowed as worked out by multiplying 0.80 of the normative O&M



expenses for ± 500 kV Talchar-Kolar HVDC bi-pole scheme (2000 MW);
 (iv) the O&M expenses of ± 800 kV Champa-Kurukshetra HVDC bi-pole scheme (3000 MW) shall be on the basis of the normative O&M expenses for ± 800 kV, Bishwanath-Agra HVDC bi-pole scheme;
 (v) the O&M expenses of ± 800 kV, Alipurduar-Agra HVDC bi-pole scheme (3000 MW) shall be allowed as worked out by multiplying 0.80 of the normative O&M expenses for ± 800 kV, Bishwanath-Agra HVDC bi-pole scheme; and
 (vi) the O&M expenses of Static Synchronous Compensator and Static Var Compensator shall be worked at 1.5% of original project cost as on commercial operation which shall be escalated at the rate of 3.51% to work out the O&M expenses during the tariff period. The O&M expenses of Static Synchronous Compensator and Static Var Compensator, if required, may be reviewed after three years.

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

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

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

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

51. O&M Expenses claimed by the Petitioner in respect of transmission asset are as follows:

(₹ in lakh)					
Particulars	2019-20 Pro-rata for 144 days	2020- 21	2021- 22	2022- 23	2023- 24
Sub-station bays					
4 numbers 765 kV GIS line bays	4	4	4	4	4
2 numbers 400 kV Conventional line bays	2	2	2	2	2
Norm (₹ lakh/bay)					
765 kV (GIS)	31.51	32.62	33.76	34.95	36.18
400 kV (AIS)	32.15	33.28	34.45	35.66	36.91
Total Sub-station O&M Expenses	190.33	197.04	203.94	211.12	218.52
PLCC					
	144.31	144.31	144.31	144.31	144.31
Norm (₹ lakh/ PLCC)					



Particulars	2019-20 Pro-rata for 144 days	2020- 21	2021- 22	2022- 23	2023- 24
Norms (in %)	2	2	2	2	2
Total Communication Expenses	2.89	2.89	2.89	2.89	2.89
Total O&M Expenses	76.02	199.93	206.83	214.01	221.41

52. The Petitioner has claimed O&M Expenses separately for the PLCC under Regulation 35(4) of the 2019 Tariff Regulations @2% of its original project cost in the instant petition and the Petitioner has made similar claim in other petitions as well. Further, though PLCC is a communication system, it has been considered as part of the sub-station in the 2014 Tariff Regulations and the 2019 Tariff Regulations and the norms for sub-station have been specified accordingly. Accordingly, the Commission vide order dated 24.1.2021 in Petition No.126/TT/2020 has already concluded that no separate O&M Expenses can be allowed for PLCC under Regulation 35(4) of the 2019 Tariff Regulations even though PLCC is a communication system. Therefore, the Petitioner's claim for separate O&M Expenses for PLCC @2% is not allowed.

53. The O&M Expenses allowed in respect of the transmission asset are as follows:

(₹ in lakh)					
Particulars	2019-20 Pro-rata for 144 days	2020- 21	2021- 22	2022- 23	2023- 24
Sub-station bays					
4 numbers 765 kV GIS line bays	4	4	4	4	4
2 numbers 400 kV Conventional line bays	2	2	2	2	2
Norm (₹ lakh/bay)					
765 kV (GIS)	31.51	32.62	33.76	34.95	36.18
400 kV (AIS)	32.15	33.28	34.45	35.66	36.91
Total Sub-station O&M Expenses	190.33	197.04	203.94	211.12	218.52
Total O&M Expenses	74.88	197.04	203.94	211.12	218.52



Interest on Working Capital (“IWC”)

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

“34. Interest on Working Capital: (1) *The working capital shall cover:*

.....

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

(i) *Receivables equivalent to 45 days of annual fixed cost;*

(ii) *Maintenance spares @ 15% of operation and maintenance expenses including security expenses; and*

(iii) *Operation and maintenance expenses, including security expenses for one month.”*

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

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

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

“3. Definition - *In these regulations, unless the context otherwise requires:-*

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

55. The Petitioner has submitted that it has computed the IWC for 2019-24 period considering the SBI Base Rate plus 350 basis points as on 1.4.2019. The Petitioner has considered the rate of IWC as 12.05%. IWC is worked out in accordance with Regulation 34 of the 2019 Tariff Regulations. The rate of IWC considered is 12.05% (SBI 1-year MCLR applicable as on 1.4.2019 of 8.55% plus 350 basis points) for 2019-20, 11.25% (SBI 1-year MCLR applicable as on 1.4.2020 of 7.75% plus 350 basis



points) for 2020-21, 10.50% (SBI 1 year MCLR applicable as on 1.4.2021 of 7.00% plus 350 basis points) for 2021-24 onwards. The components of the working capital and interest allowed thereon are as follows:

(₹ in lakh)						
	Particulars	2019-20 Pro-rata for 144 days	2020-21	2021-22	2022-23	2023-24
A	Working Capital for O&M Expenses (O&M expenses for one month)	15.86	16.42	17.00	17.59	18.21
B	Working Capital for Maintenance Spares (15% of O&M expenses)	28.55	29.56	30.59	31.67	32.78
C	Working Capital for Receivables (Equivalent to 45 days of annual fixed cost / annual transmission charges)	260.70	276.34	283.49	281.36	275.49
D	Total of Working Capital	305.11	322.32	331.08	330.63	326.48
E	Rate of Interest for Working Capital (in %)	12.05	11.25	10.50	10.50	10.50
F	Interest of working capital	14.47	36.26	34.76	34.72	34.28

Annual Fixed Charges for 2019-24 Tariff Period

56. The transmission charges allowed in respect of the Combined Asset for 2019-24 tariff period are as follows:

(₹ in lakh)					
Particulars	2019-20 (Pro-rata for 144 days)	2020-21	2021-22	2022-23	2023-24
Depreciation	241.91	665.10	701.06	711.30	713.54
Interest on Loan	247.00	638.83	617.07	571.50	518.37
Return on Equity	255.99	704.24	742.60	753.53	755.92
Operation and Maintenance	74.88	197.04	203.94	211.12	218.52
Interest on Working Capital	14.47	36.26	34.76	34.72	34.28
Total	834.25	2241.47	2299.43	2282.17	2240.63

Filing Fee and Publication Expenses

57. The Petitioner has sought reimbursement of fee paid by it for filing the petition and publication expenses. The Petitioner shall be entitled for reimbursement of the



filing fees and publication expenses in connection with the present petition, directly from the beneficiaries on pro-rata basis in accordance with Regulation 70(1) of the 2019 Tariff Regulations.

Licence Fee and RLDC Fees and Charges

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

Goods and Services Tax

59. The Petitioner has submitted that if GST is levied at any rate and at any point of time in future on charges of transmission of electricity, the same shall be borne and additionally paid by the Respondent(s) to the Petitioner and the same shall be charged and billed separately by the Petitioner. Further additional taxes, if any, are to be paid by the Petitioner on account of demand from Government/Statutory Authorities, the same may be allowed to be recovered from the beneficiaries.

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

Security Expenses

61. The Petitioner has submitted that security expenses in respect of transmission assets is not claimed in the instant petition and it would file a separate petition for claiming the overall security expenses and consequential IWC.



62. We have considered the above submissions of Petitioner. The Petitioner has claimed consolidated security expenses for all the transmission assets owned by it on projected basis for 2019-24 tariff period on the basis of actual security expenses incurred in 2018-19 in Petition No. 260/MP/2020. The said petition has already been disposed of by the Commission vide order dated 3.8.2021 and the Commission has approved security expenses from 1.4.2019 to 31.3.2024. Therefore, security expenses will be shared in terms of the order dated 3.8.2021 in Petition No. 260/MP/2020. Therefore, the Petitioner's prayer in the instant petition for allowing it to file a separate petition for claiming the overall security expenses and consequential IWC has become infructuous.

Sharing of Transmission Charges

63. TANGEDCO has submitted, vide affidavit dated 28.10.2021, that with notification of the 2020 Sharing Regulations, it is inevitable to segregate capital cost of the assets into the 2010 Sharing Regulations regime and the 2020 Sharing Regulations regime. TANGEDCO has also submitted that the Commission in order dated 25.7.2016 in Petition No.102/TT/2016 directed to split the capital cost under two heads viz. pre-PoC and post-PoC i.e. up to 30.6.2011 and beyond 30.6.2011 respectively. Further, the components of the tariff had also been reworked based on the splitting of the capital cost based on pre-PoC and post-PoC regime. TANGEDCO has submitted that there is a need to split the capital cost including ACE based on the 2010 Sharing Regulations and the 2020 Sharing Regulations i.e. up to 31.12.2020 and from 1.1.2021 onwards. Further, the Yearly Transmission Charges (YTC) up to 31.12.2020 and from 1.1.2021 onwards are required to be split and the tariff components for the same need to be worked out accordingly.



64. In response, the Petitioner has submitted that reliance placed by TANGEDCO in Commission's order dated 25.7.2016 in Petition No. 102/TT/2016 is misconceived. The Petitioner has further submitted that after true up and determination of transmission tariff, sharing of transmission charges for 2014-19 period and 2019- 24 period upto 31.10.2020 will be done as per the 2010 Sharing Regulations and thereafter from 1.11.2020 onwards, it will be done as per the 2020 Sharing Regulations. The Petitioner has further submitted that tariff determination and sharing of transmission charges are two independent activities and the same cannot be interlinked. After determination of tariff of the transmission asset, the aspect of YTC bifurcation as contended by TANGEDCO will be taken care by CTUIL at the time of billing.

65. We have considered the submissions of the Petitioner and TANGEDCO. TANGEDCO's has contended that the capital cost of the transmission asset should be split based on the 2010 Sharing Regulations and the 2020 Sharing Regulations and the Yearly Transmission Charges should be determined accordingly. These contentions of TANGEDCO have already been considered and rejected by the Commission in order dated 30.6.2022 in Petition No.23/TT/2021 and 5.7.2022 in Petition No.662/TT/2020. However, in the instant case, TANGEDCO has placed reliance on the Commission's order dated 25.7.2016 in Petition No.102/TT/2016. We have perused the order dated 25.7.2016. It is observed that in Petition No. 367/TT/2014 while claiming true up of the tariff of the 2009-14 tariff period and determination of tariff of the 2014-19 tariff period in respect of the assets under System Strengthening-VI of Southern Region Grid in Southern Region, the Petitioner had inadvertently combined the transmission assets put into commercial operation before



and after the notification of the 2010 Sharing Regulations. This led to difficulties in billing and recovery of the tariff. Taking into consideration the inadvertent mistake of combining the assets on the part of the Petitioner, the Commission considered the individual capital cost of the asset put into commercial operation before the notification of the 2010 Sharing and after the notification of the Sharing Regulations and determined separate tariff in order dated 25.7.2016 in Petition No.102/TT/2016. The relevant portion of the order dated 25.7.2016 in Petition No.102/TT/2016 is as follows:

“8. The petitioner accepted that assets have been combined inadvertently from 1.4.2009 in Petition No. 367/TT/2014 for determination of true up tariff for 2009- 14 period and determination of tariff for 2014-19 period instead of from 1.7.2011. The petitioner has faced difficulties in billing based on combined tariff determined by the Commission in Petition No. 367/TT/2014. Therefore, the petitioner has approached this Commission to revise the combined tariff of Asset I and Asset II determined in the petition 367/TT/2014. The petitioner has sought the approval for separation of tariff of Asset I and Asset II from 1.4.2009 to 30.6.2011 (“Pre-POC period”) and combined tariff from 1.7.2011 to 31.3.2014 (“Post-POC period”) and combined tariff from 1.7.2011 to 31.3.2014 (Post POC period)

*.....
10. We have considered the submission of the petitioner. Taking into cognizance of the philosophy prevailing as per the order dated 28.3.2008 in Petition No. 85/2007 (Suo-motu) prior to introduction of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 that the transmission charges of Asset II is to be apportioned to the host state only, we feel that the tariff determined in the order dated 26.11.2015 in the petition 367/TT/2014 is to be separated between Asset I and Asset II upto 30.6.2011 to enable the recovery of the transmission charges from host State. The separate working of the tariff for the individual asset involves the determination of separate capital cost, change in opening equity, gross opening loan, and net normative opening loan as on 1.4.2009, the tariff of individual assets has been determined in accordance with the 2009 Tariff Regulations. Accordingly, separation of true up transmission tariff for block 2009- 14 has been worked out for the period up to 30.6.2011 & from 1.7.2011 to 31.3.2014 as discussed in the subsequent paragraph. The tariff determined in this order will supersede the tariff determination in the order dated 26.11.2015 in petition no 367/TT/2014 for the tariff period 2009-14 and 2014-19.”*

66. Therefore, we are of the considered view that the facts and circumstances in the present case are different. Thus, the issue raised by TANGEDCO for splitting the capital cost of the transmission assets and the tariff components on the basis of the 2010 Sharing Regulations and the 2020 Sharing Regulations regimes on the lines of the said order dated 25.7.2016 is misconceived and therefore rejected.



67. WKTL vide affidavits dated 22.10.2021 and 19.7.2022 has submitted as follows:

(i) There is time over-run in case of its TBCB transmission line due to *force majeure* events beyond the control of WKTL, therefore liability of transmission charges cannot be imposed on WKTL. WKTL has submitted that its TBCB line has been delayed due to the following *force majeure* events:

(a) Severe Right of Way issues faced by WKTL viz. (i) stiff resistance from the MLA of Bhadrawati Constituency along with his supporters; (ii) farmer agitation in Maharashtra seeking higher compensation to the land owners; and (iii) various court proceedings initiated by land owners and stay/interim injunctions granted therein.

(b) Overlapping of route alignment of PGCIL 800 kV HVDC Raigarh-Pugalur Transmission Ltd. with the transmission lines of WKTL.

(c) Unprecedented heavy rainfall in the States of Telangana and Andhra Pradesh.

(d) Objections raised by the Telangana State Industrial Infrastructure Corporation to the construction of Warangal–Hyderabad Transmission Line and Hyderabad–Kurnool Transmission Line on the ground that TSIIC was in the process of acquiring the land over which the said lines were being constructed, for development of industries.

(e) Directions issued by Western Coalfields Ltd. and Singareni Collieries Company Ltd. to stop construction of tower of Warora-Warangal Transmission Line passing through WCL Penganga Open Cast Mine area and Prof. Jayashankar Open Cast project.

(f) Delay in grant of wildlife approval from the Principal Chief Conservator of Forest.



(g) Issue of crossing of proposed wayside amenity and helipad on the Project line raised by National Highway Authority of India.

(ii) Due to the aforesaid *force majeure* events, it has not been able to complete the transmission system till date. Accordingly, WKTL filed Petition No. 334/MP/2020 before the Commission, seeking extension of the SCOD under Article 4.4.2 of the TSA. Accordingly, WKTL is eligible for extension of the SCOD till the actual COD of the transmission system in view of the aforesaid *force majeure* events due to which WKTL was hindered from performing its obligations under the TSA. However, the said petition was disposed of by the Commission vide order dated 7.2.2021 with liberty to WKTL to approach the Commission on commissioning of its downstream system and with a direction that no precipitative actions can be taken against WKTL as the subsistence of TSA in the interregnum is vital for the completion/ implementation of the transmission project. Accordingly, WKTL has submitted that the present petition may be kept in abeyance until WKTL's Transmission System is completed and WKTL's *force majeure* claims are adjudicated by the Commission in terms of Commission's order dated 7.2.2021 in Petition No. 334/MP/2020. WKTL has further placed reliance upon the APTEL's judgment dated 14.9.2020 in Appeal No. 17 of 2019, (NRSS XXXI (B) Transmission Ltd. v. CERC & Ors.), wherein, the APTEL held that a transmission licensee cannot be made liable to make payment of any transmission charges for any alleged delay, which occurred on account of *force majeure* events (which has been condoned).

(iii) The 2019 Tariff Regulations are not applicable in the present case as the said regulations only govern 'determination' of transmission tariff for transmission system developed by inter-State transmission licensees under Section 62 of the



Act and WKTL is an inter-state transmission licensee which is developing the inter-State transmission system under Section 63 of the Act.

(v) The Petitioner has filed the present petition invoking the provisions of the 2010 Sharing Regulations. The 2010 Sharing Regulations do not provide any clarification regarding the liability to bear transmission charges in the event the delay in COD of the transmission system on account of *force majeure* events.

(vi) Ministry of Power (MoP) on 15.1.2021, issued directions to the Commission under Section 107 of the Act *qua* the Sharing Regulations by *inter-alia*, enabling exemption from the payment of the transmission charges to the transmission licensee in case the COD of the transmission system is delayed on the grounds of *force majeure* and has directed the Commission to amend the Sharing Regulations to ensure that no additional liability/ penalty is levied on the transmission licensee in the form of transmission charges.

(v) WKTL cannot be made liable to pay any transmission charges for the Petitioner's asset until WKTL's transmission system is executed and the *force majeure* claims of WKTL be decided by the Commission

68. In response, the Petitioner has submitted as follows:

(i) The assets were put into commercial operation on 9.11.2019 matching with the SCOD of the associated Transmission System i.e. November, 2019. However, as mentioned in the CEA's Monthly Progress Report of Transmission Projects awarded through TBCB for November, 2019, the associated TBCB transmission line being implemented by WKTL has not been charged yet and is delayed from the SCOD.



(ii) The primary contention of WKTL is that its project is delayed by certain *force majeure* events and, therefore, no liability to pay the transmission charges can be levied on it even if a deemed COD approval is granted to the assets of the Petitioner. The delay in execution of its transmission system by WKTL has to be dealt in terms of the provisions of the TSA dated 6.1.2016. This has nothing to do with the Petitioner or the decision in the present petition.

(iii) As regarding the contentions of WKTL that it has filed Petition No. 334/MP/2020 on 4.3.2020 seeking an extension of SCOD under Article 4.4.2 of the TSA, wherein, the Commission vide order dated 7.2.2021, has disposed of the said Petition, with a direction to WKTL to approach the Commission for extension of SCOD of the transmission project on the grounds of *force majeure* events after the completion of the transmission project along with the direction that no precipitative actions will be taken against WKTL as the subsistence of TSA in the interregnum is vital to the completion/ implementation of the transmission project. The Commission has also directed WKTL to take sincere endeavours to complete the transmission project.

(iv) The Commission has not taken any view on the claim of WKTL of *force majeure* or extension of SCOD and only granted liberty to it to approach the Commission after completion of the transmission project. Further, the direction of not taking any precipitative action against WKTL as an interim measure is in the context of the subsistence of the TSA and an issue between WKTL and the beneficiaries of the transmission system being implemented by it. The Petitioner was not even a party to the above matter and any directions issued by the Commission in the above matter cannot preclude approval of COD of the transmission asset under Regulation 5(2) of 2019 Tariff Regulations.



(v) The reasons cited by WKTL as *force majeure* may be considered by the Commission in terms of the liberty granted by it to WKTL in order dated 7.2.2021 in Petition No. 334/MP/2020. No advance declaration can be sought by WKTL in the present proceedings with regard to such claims of *force majeure*.

(vi) The reliance placed by WKTL on APTEL's judgment dated 14.9.2020 in Appeal No. 17 of 2019 is also misplaced. The specific case considered by APTEL was of a TBCB licensee whose time over-run in project execution had been condoned by this Commission. The APTEL in its judgment referred to its earlier Judgments passed in Punjab State Power Corporation Limited vs. Patran Transmission Company Limited & Ors (Judgment dated 27.3.2018 in Appeal No. 390 of 2017), as well as Nuclear Power Corporation of India Limited vs. CERC & Ors. (Judgment dated 18.1.2019 in Appeal No. 332 of 2016), wherein the principle of liability to pay transmission charges in case of mismatch has been decided. Further, the APTEL referred to its earlier judgments dated 6.4.2016 in Western Region Transmission (Maharashtra) Private Ltd. vs. CERC & Ors. passed in Appeal No. 86 of 2015 wherein the APTEL held that in the case of TSA's entered into under TBCB route, *force majeure* can be compensated by way of extension of SCOD and not by granting additional costs.

(vii) The Petitioner is not dealing with the specifics of the *force majeure* raised by WKTL since it is not concerned with the said issues.

(viii) With regard to the objections raised by WKTL on the recovery of Petitioner's tariff, the Petitioner has prayed for recovery of the transmission charges as per the provisions of the 2010 Sharing Regulations. The Petitioner



has not made any claim against WKTL. However, the submission of WKTL that the provisions of the 2019 Tariff Regulations will not be applicable since the said regulations apply to tariff determination under Section 62 of the Act and the present case falls under Section 63 is baseless and denied.

(ix) WKTL has also relied on the letter dated 15.1.2021 issued by the MoP under Section 107 of the Act. The scope of the above directive needs to be deliberated upon by this Commission. It is however not correct to keep the present petition in abeyance till WKTL's transmission system is completed and its claim for *force majeure* is adjudicated. The very purpose of notification of Regulation 5(2) of the 2019 Tariff Regulations will be defeated if such a course is taken.

69. We have considered the objections raised by WKTL and the clarifications given by the Petitioner. As regards the submission made by WKTL that its transmission system is affected by *force majeure* conditions, the Commission in order dated 7.2.2021 has already held that an appropriate view on the claims made by WKTL due to *force majeure* events would be taken after the completion of the transmission system by WKTL. The relevant portion of the order dated 7.2.2021 is extracted hereunder. As such, we are not inclined to go into the issue of extension of COD due to *force majeure* events in this petition.

"36. It is observed that events cited above are still continuing and the Petitioner has approached the Commission for declaration of these events as force majeure events and requested for extension of SCOD of the Project, in advance. The Petitioner itself stated that it is unable to quantify and to confirm the likely COD of the Project as some of above events are still continuing. Therefore, we are of the view that since the project has not been completed by the Petitioner till date and is still under implementation with uncertainty about the likely COD, it would not be appropriate to take a view on the claimed force majeure issues and extension of SCOD at this stage. Accordingly, the Petitioner is granted liberty to approach the Commission to seek the appropriate relief for force majeure events, after completion of the Project."



70. WKTL has contended that the tariff of the transmission asset of the Petitioner cannot be recovered from WKTL because WKTL's transmission system is developed through TBCB route under Section 63 of the Act and not under Section 62 of the Act and has also contended that the 2010 Sharing Regulations do not provide for recovery of transmission charges from the defaulting entity in case of mismatch in COD. In response, the Petitioner has submitted that WKTL has contended that the present petition is only for determination of transmission tariff of the assets of the Petitioner under section 62 of the Act. Any proceedings that WKTL may file under Section 63 cannot affect the present petition.

71. We have considered the submissions of the Petitioner and WKTL. The transmission asset of the Petitioner is being implemented under the RTM route and it is covered under section 62 of the Act. As per Regulation 2(1) of the 2019 Tariff Regulations, framed under section 178 read with section 61 of the Act, the 2019 Tariff Regulations are applicable for the transmission system or element thereof implemented under section 62 of the Act. Accordingly, the 2019 Tariff Regulations are applicable for the instant transmission asset of the Petitioner covered under section 62 of the Act. As per Regulation 57 of the 2019 Tariff Regulations, sharing of transmission charges shall be governed by the Sharing regulations. Therefore, the contention of WKTL that the 2019 Tariff Regulations and the Sharing Regulations are not applicable for the transmission asset is misconceived and rejected.

72. As regards the contention of WKTL that the 2010 Sharing Regulations do not provide for recovery of transmission charges from the defaulting entity in case of mismatch in COD. we are of the view that Regulation 6(2) of the 2019 Tariff



Regulations provide for treatment of mismatch in the COD of the inter-connected transmission systems till 19.2.2021 when the said provision was deleted vide second amendment to the 2019 Tariff Regulations dated 19.2.2021 and was included in the 2020 Sharing Regulations and will be effective from 1.11.2020. As we have already approved the COD of the transmission asset under Regulation 5(2) of the 2019 Tariff Regulations as the associated transmission asset of WKTL is not ready and not completed yet, Regulation 6(2) of the 2019 Tariff Regulations which contains detailed provisions with regard to liability for mismatch of the COD between generating station and transmission system or between two transmission licensees of a connected transmission system is applicable in case of the instant transmission assets. The Regulation 6(2) of the 2019 Tariff Regulations provides as follows:

“6. Treatment of mismatch in date of commercial operation: (1) In case of mismatch of the date of commercial operation of the generating station and the transmission system, the liability for the transmission charges shall be determined as under:

(a) Where the generating station has not achieved the commercial operation as on the date of commercial operation of the associated transmission system (which is not before the SCOD of the generating station) and the Commission has approved the date of commercial operation of such transmission system in terms of clause (2) of the Regulation 5 of these regulations, the generating company shall be liable to pay the transmission charges of the associated transmission system in accordance with clause (5) of Regulation 14 of these regulations to the transmission licensee till the generating station or unit thereof achieves commercial operation:

(b) Where the associated transmission system has not achieved the commercial operation as on the date of commercial operation of the concerned generating station or unit thereof (which is not before the SCOD of the transmission system), the transmission licensee shall make alternate arrangement for the evacuation from the generating station at its own cost, failing which, the transmission licensee shall be liable to pay the transmission charges to the generating company as determined by the Commission, in accordance with clause (5) of Regulation 14 of these regulations, till the transmission system achieves the commercial operation.

(2) In case of mismatch of the date of commercial operation of the transmission system and the transmission system of other transmission licensee, the liability for the transmission charges shall be determined as under:

(a) Where an interconnected transmission system of other transmission licensee has not achieved the commercial operation as on the date of commercial operation of the transmission system (which is not before the SCOD of the interconnected transmission system) and the Commission has approved the date of commercial operation of such transmission system in terms of clause (2) of



Regulation 5 of these regulations, the other transmission licensee shall be liable to pay the transmission charges of the transmission system in accordance with clause (5) of Regulation 14 of these regulations to the transmission licensee till the interconnected transmission system achieves commercial operation:

(b) Where the transmission system has not achieved the commercial operation as on the date of commercial operation of the interconnected transmission system of other transmission licensee (which is not before the SCOD of the transmission system), the transmission licensee shall be liable to pay the transmission charges of such interconnected transmission system to the other transmission licensee or as may be determined by the Commission, in accordance with clause (5) of Regulation 14 of these regulations, till the transmission system achieves the commercial operation.”

73. In the instant case, as stated above, the COD of the transmission asset has been approved as 9.11.2019 under Regulation 5(2) of the 2019 Tariff Regulations. As per Regulation 6(2)(a) of the 2019 Tariff Regulations, if an interconnected transmission system of other transmission licensee is not ready on the COD of the transmission asset and if the COD of the transmission asset has been approved under Regulation 5(2) of the 2019 Tariff Regulations, the transmission licensee has to bear the transmission charges of the transmission asset of the other transmission licensee till the COD of the interconnected transmission system under its scope. The said provision does not distinguish between a transmission project under the RTM route and the TBCB route.

74. Further, as per the scheme of Regulation 5(2) of the 2019 Tariff Regulations, if a transmission licensee is prevented from putting its transmission assets into regular use due to non-readiness of the downstream or upstream transmission licensee or a generating station, the transmission licensee can approach the Commission for declaration of COD of such transmission assets. The entity responsible for execution of the downstream or upstream transmission licensee or a generating station, irrespective of the fact that it is affected by *force majeure* events, has to bear the transmission charges for the period of mismatch from the transmission asset to the



COD of transmission asset/ scheme under its scope. In the instant case, non-utilization of transmission asset of the Petitioner was on account of delay in completion of the transmission line under the scope of WKTL. Accordingly, we have approved COD of the transmission asset as 9.11.2019 under Regulation 5(2) of the 2019 Tariff Regulations. As the associated transmission line was not ready on 9.11.2019, we are of the view that the yearly transmission charges of the instant transmission asset should be borne by WKTL from COD of the transmission asset on 9.11.2019 till the COD of the associated TBCB line of WKTL.

75. With effect from 1.11.2020, sharing of transmission charges is governed by the provisions of the 2020 Sharing Regulations. Accordingly, the liabilities of DICs for arrears of transmission charges determined through this order shall be computed DIC-wise in accordance with the provisions of respective Tariff Regulations and shall be recovered from the concerned DICs through Bill 2 under Regulation 15(2)(b) of the 2020 Sharing Regulations. Billing, collection, and disbursement of transmission charges for subsequent period shall be recovered in terms of provisions of the 2020 Sharing Regulations as provided in Regulation 57 of the 2019 Tariff Regulations.

76. To summarise:

(a) AFC allowed in respect of the transmission asset for 2019-24 tariff period in the instant order are as follows:

(₹ in lakh)				
2019-20 (Pro-rata for 144 days)	2020-21	2021-22	2022-23	2023-24
834.25	2241.47	2299.43	2282.17	2240.63



77. Annexure-I given hereinafter shall form part of the order.

78. This order disposes of Petition No. 169/TT/2020 in terms of the above discussions and findings.

sd/-

(P. K. Singh)
Member

sd/-

(Arun Goyal)
Member

sd/-

(I. S. Jha)
Member



2019-24

Annexure-I

Depreciation

(₹ in lakh)

Particulars	Admitted Capital Cost as on 1.4.2019 (₹ in lakh)	ACE 2019-24				Admitted Capital Cost as on 1.4.2024 (₹ in lakh)	Rate of Depreciation (in %)	Annual Depreciation as per Regulations (₹ in lakh)				
		2019-20	2020-21	2021-22	2022-23			2019-20	2020-21	2021-22	2022-23	2023-24
Sub Station	10944.57	844.05	1057.87	303.28	84.74	13234.51	5.28%	600.16	650.37	686.30	696.54	698.78
PLCC	143.55	0.29	0.47	0.00	0.00	144.31	6.33%	9.10	9.12	9.13	9.13	9.13
IT Equipment & Software	37.27	0.08	0.12	0.00	0.00	37.47	15.00%	5.60	5.61	5.62	5.62	5.62
Total	11125.39	844.42	1058.46	303.28	84.74	13416.29		614.85	665.10	701.06	711.30	713.54
Weighted Average Rate of Depreciation (in %)								5.32%	5.32%	5.32%	5.32%	5.32%
Average Gross Block (₹ in lakh)								11547.60	12499.04	13179.91	13373.92	13416.29

