

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.341/MP/2020**

**Coram:**

**Shri I.S. Jha, Member**

**Shri Arun Goyal, Member**

**Shri Pravas Kumar Singh, Member**

**Date of Order: 25<sup>th</sup> November, 2022**

**In the matter of**

Petition for recovery of impact of wage revision of employees, impact of GST, Minimum Wages, and Security Expenses (CISF) in respect of Koteshwar Hydroelectric Project during the period from 1.1.2016 to 31.3.2019.

**And**

**In the matter of:**

THDC India Limited  
Pragatipuram, Bypass Road,  
Rishikesh-249 201 (Uttarakhand)

.....**Petitioner**

Vs

1. Punjab State Power Corporation Limited,  
The Mall, Patiala – 147001 (Punjab)
2. Haryana Power Utilities  
(DHBVNL & UHBVNL),  
Shakti Bhawan, Sector 6,  
Panchkula – 134 109 (Haryana)
3. Uttar Pradesh Power Corporation Limited,  
Shakti Bhawan, 14 Ashok Marg,  
Lucknow – 226001 (UP)
4. BSES Rajdhani Power Limited,  
BSES Bhawan, Nehru Place,  
Behind Nehru Place Bus Terminal,  
New Delhi-110019



5. BSES Yamuna Power Limited,  
3<sup>rd</sup> Floor, Shakti Kiran Building,  
Karkardooma, Near Court,  
New Delhi-110092
6. Tata Power Delhi Distribution Limited,  
33 KV, Grid Sub-Station Building,  
Hudson Lines, Kingsway Camp,  
Delhi-110009
7. Engineering Department,  
Chandigarh Administration,  
1<sup>st</sup> Floor, UT Secretariat,  
Sector 9-D, Chandigarh-160009
8. Uttarakhand Power Corporation Limited,  
Urja Bhawan, Kanwali Road,  
Dehradun-248001 (UK)
9. Himachal Pradesh State Electricity Board,  
Vidyut Bhawan, Kumar House Complex Building II,  
Shimla-17100
10. Jaipur Vidyut Vitran Nigam Limited,  
Vidyut Bhawan, Janpath, Jyotinagar,  
Jaipur-302005 (Rajasthan)
11. Ajmer Vidyut Vitran Nigam Limited,  
Old Power House, Hatthi Bhatta, Jaipur road,  
Ajmer-305001 (Rajasthan)
12. Jodhpur Vidyut Vitran Nigam Ltd.,  
New Power House, Industrial Area  
Jodhpur-342003 (Rajasthan)
13. Power Development Department,  
Govt. of J&K, Civil Secretariat,  
Jammu -180001 (J&K)
14. Rajasthan Urja Vikas Nigam Limited,  
Vidyut Bhawan, Jyoti Nagar,  
Jaipur – 302005 (Rajasthan)
15. Madhya Pradesh Power Management Company Limited,  
3<sup>rd</sup> Floor, Block No. 11, Shakti Bhawan, Rampur, Jabalpur-482008



16. Jammu and Kashmir State Power Trading Company Limited,  
PDD Complex, Bemina, Srinagar – 190010 (J& K)

.... Respondents

**Parties present:**

Ms. Anushree Bardhan, Advocate, THDCIL  
Shri Rajesh Sharma, THDCIL  
Shri Mukesh Kumar Verma, THDCIL  
Shri Ajay Vaish, THDCIL  
Shri Rakesh Singh, THDCIL  
Shri Brijesh Kumar Saxena, UPPCL  
Shri R.B. Sharma, Advocate, BRPL  
Ms. Megha Bajpeyi, BRPL  
Shri Mohit Mudgal, Advocate, BYPL  
Shri Sachin Dubey, Advocate, BYPL  
Shri Abhishek Srivastava, BYPL  
Shri Sameer Singh, BYPL  
Shri Ravindra Khare, MPPMCL

**ORDER**

The Petitioner, THDCIL has filed this petition under section 94 of the Electricity Act, 2003 read with Regulation 79 and Regulation 111 of CERC (Conduct of Business) Regulations, 1999 and Regulation 54 and Regulation 55 of the Central Electricity Regulatory Commission (Terms & Conditions of Tariff) Regulations, 2014 for recovery of impact of wage revision of employees, Impact of GST, Minimum Wages and Security expenses (CISF) in respect of Koteswar Hydro Electric Project (400 MW) in short 'the generating station') during the period from 1.1.2016 to 31.3.2019. Accordingly, the Petitioner has sought the following relief(s):

*(1) Allow the Petitioner under Regulation-54 & 55 of CERC Tariff Regulations, 2014 to bill and recover the additional O&M expenses amounting to Rs. 329.81 lakh, Rs. 1177.29 lakh, Rs.3374.56 lakh, Rs. 3876.13 lakh for the FY 2015-16, 2016-17, 2017-18 & 2018-19 respectively as given in para-17 above, from the respondents due to increase in employee cost on account of pay revision of CISF w.e.f. 01.01.2016, THDCIL employees w.e.f. 01.01.2017, Impact of GST and Minimum Wages.*



(2) Allow the additional O&M expenses as stated above to be recovered from the Respondents in proportion to their allocated capacity shares in the respective years of tariff period 2014-19.

(3) Pass such further order or orders as may be deemed fit and proper in the facts and circumstances of the case.

2. The Petitioner is a joint venture company of the Government of India and Government of Uttar Pradesh, with GOI holding majority and controlling shares. The generating station is a part of Tehri Hydro Power Complex, which comprises of Tehri HPP Stage-I (1000 MW), Tehri Pumped Storage Plant (1000 MW) and downstream power station Koteshwar Hydroelectric Project (400 MW) in Tehri Garhwal in the State of Uttarakhand. The entire Tehri Power Complex is scheduled to have an aggregate capacity of 2400 MW. The Koteshwar reservoir will function as lower reservoir for Tehri Pumped Storage Plant and regulate the water releases from main Tehri reservoir for irrigation & drinking water requirements purpose. The generating station comprises of four units with a capacity of 100 MW each. The dates of commercial operation of the units of the generating station are as under:

Unit	COD
I	1.4.2011
II	26.10.2011
III	13.2.2012
IV	1.4.2012

3. The Commission vide its order dated 9.10.2018 in Petition No. 117/GT/2018 had determined the tariff of the generating station of the Petitioner for the 2014-19 tariff period in accordance with the provisions of the 2014 Tariff Regulations. Subsequently, in Petition No. 47/RP/2018 filed by the Petitioner seeking review of order dated 9.10.2018, on certain grounds, the Commission vide order dated 4.6.2019 had revised the tariff of the generating station. Subsequently, the Commission vide its order dated 14.9.2022 in



Petition No. 245/GT/2020 revised the tariff of the generating station for the 2014-19 tariff period after truing-up exercise. In the said order, the O& M expenses allowed to the generating station are as under:

2015-16	2016-17	2017-18	2018-19	Total
5759.61	6142.05	6549.88	6984.79	7448.50

4. Thereafter, vide order dated 3.10.2022 in Petition No.244/GT/2020, the tariff of the generating station was approved for the period 2019-24.

### **Submissions of the Petitioner**

5. In support of the aforesaid prayer, the Petitioner has submitted as under:

a) The expenditure on manpower deployed in the power station and Central Industrial Security Force (CISF) form part of the O&M Expenses in terms of the definition for O&M expenses, provided under Regulation 3(42) of the 2014 Tariff Regulations.

b) Pay revision with effect from 1.1.2016 and 1.1.2017 were not considered by Commission while fixing the norms for hydro generating stations. If the pay revision or wage revision had taken place at the time the norms were framed, the Commission would have certainly taken into account, its impact, while fixing the norms. In other words, the legitimate expenditures incurred by the Petitioner are not being serviced, as the same have not been factored in the norms.

c) Section 61(d) of the Act provides that one of the guiding factors for determination of the terms and conditions of tariff is to safeguard consumer interest, while ensuring recovery of the cost of electricity in a reasonable manner. Pay & allowances, Security expenses, GST etc. are mandatory expenditures and are a necessary input to determine the cost of electricity. The said expenditure could not be factored at the time of determination of norms, since the pay revision came into force w.e.f. 1.1.2016, in respect of security forces and w.e.f. 1.1.2017, in respect of the employees of the Petitioner, and due to change in law i.e. towards implementation of GST w.e.f 1.7.2017. If the impact of pay revision or wage revision, security expenses, GST etc. are denied, it would result in under recovery of cost of electricity by the generating company. Therefore, a clear case has been made out to remove the difficulty arising out of non-consideration of the impact of



wage revision, security expenses, GST etc. in the O&M expense norms for the period 2014-19.

d) The Commission in its order dated 1.12.2016 in Petition No. 318/GT/2014 (NTPC v UPPCL) had observed that ‘the prayer of the Petitioner (NTPC) for enhancement of O&M expenses if any, due to pay revision may be examined by the Commission, on a case to case basis, subject to the implementation of pay revision as per DPE guidelines and the filing of an appropriate application by the Petitioner in this regard’.

e) There is significant under-recovery of expenses in case of this generating station, on account of the above reasons. Details of the actual O&M expenses for 2014-19 and a comparison of the actual O&M expenses versus the normative O&M expenses allowed for the period 2014-19 is as below:

*(Rs. in lakh)*

Year	Normative O&M Expenses allowed by Commission	Actual O&M Expenses	Difference
	<b>(a)</b>	<b>(b)</b>	<b>(a-b)</b>
2014-15	5932.00	11860.61	(-)5928.61
2015-16	6325.88	11790.84	(-)5464.96
2016-17	6745.92	15685.46	(-)8939.54
2017-18	7193.85	17072.24	(-)9878.39
2018-19	7671.52	22418.53	(-)14747.01
<b>Total</b>	<b>33869.17</b>	<b>78827.68</b>	<b>(-)44958.51</b>

f) The effect of implementation of pay revision during the period 2014-19 was discussed in Para-33.2 of the Statement of Objects and Reasons (SOR) to the 2014 Tariff Regulations, as under:

**Commission’s Views**

33.2 The draft Regulations provided for a normative percentage of employee cost to total O&M expenses for generating stations and transmission system with an intention to provide a ceiling limit so that the same should not lead to any exorbitant increase in the O&M expenses resulting in spike in tariff. The Commission shall examine the increase in employee expenses on case to case basis and shall consider the same if found appropriate, to ensure that overall impact at the macro level is sustainable and thoroughly justified. Accordingly, clause 29(4) proposed in the draft Regulations has been deleted. The impact of wage revision shall only be given after seeing impact of one full year and if it is found that O&M norms provided under Regulations are inadequate/insufficient to cover all justifiable O&M



expenses for the particular year including employee expenses, then balance amount may be considered for reimbursement.”

g) The pay revision of employees has been implemented by the Petitioner in the following manner:

i. The decisions of the Government on the recommendations of 7<sup>th</sup> Central pay Commission was notified by the Department of Expenditure; Ministry of Finance vide Resolution No. 1-2/2016-IC dated 25.07.2016. Subsequently, Department of Expenditure, Ministry of Finance vide Office Memorandum No. 1-5/2016-IC dated 29.07.2016 has issued instructions for implementation of pay scales of Central Government Employees which was effective from 01.01.2016. Accordingly, additional cost has been incurred by the petitioner on account of the pay revision of CISF deployed in the power station.

ii. Department of Public Enterprises (DPE) vide Office Memorandum No. W-02/0028/2017-DPE(WC)-GL-XIII/17 dated 03.08.2017, O.M No. W-02/0028/2017-DPE (WC)-GL-XIV/17 dated 04.08.2017 & O.M No. W-02/0028/2017-DPE (WC)-GL-XVI/17 dated 07.09.2017 has issued guidelines for revision of pay scales & allowances of Board Level & below board level executives and Non-unionized supervisors of Central Public Sector Enterprises (CPSEs) w.e.f. 1.1.2017.

iii. The pay revision proposal of Board Level & below Board Level executives was approved by the Board of Directors of the Petitioner Company in its 190<sup>th</sup> meeting held on 2.1.2018. Further, the pay revision proposal of Workmen & Supervisors was approved by the Board of Directors in its 197<sup>th</sup> Board meeting held on 27.02.2019.

iv. Memorandum No. W-02/0030/2018-DPE(WC)-GL-XVIII/18 dated 10.7.2018, Department of Public Enterprises. THDCIL Corporate Personnel Circular No. 01/2018 dated: 28.05.2018, 02/2018 dated: 11.03.2019 and 08/2019 dated: 29.05.2019. THDCIL Corporate Personnel Circular No. 03/2011, 04/2011, 05/2011 and 07/2011 dated:05.04.2011. Memorandum of Understanding (MoU) between THDCIL management & Workmen Unions dated: 22.02.2019. Rates of Minimum Wages- Orders of The Dy. Chief Labour Commissioner (Central), Dehradun for variable Dearness allowance.

h) Due to implementation of the pay revision of CISF w.e.f 1.1.2016 and pay revision of the Petitioners employees w.e.f 1.1.2017, the Petitioner has incurred



additional expenses for payment to its employees. In addition to this, the Petitioner has also incurred additional expenses, on account of increase in the ceiling limit of gratuity from Rs 10 lakh to Rs 20 lakh w.e.f. 1.1.2017 as per Clause 12.1 of the DPE guidelines on 3<sup>rd</sup> PRC. The impact of enhancement of ceiling limit of gratuity, minimum wages and implementation of GST are also covered under Regulation 3(9) and Regulation 8(3)(ii) of the 2014 Tariff Regulations i.e under 'Change in Law' w.e.f. 29.3.2018. This has resulted in a substantial increase in the O&M expenses in case of the generating station of the Petitioner with effect from 2016-17. As stated in the preceding paras, the impact of the same has not been considered / factored by the Commission while fixing the normative O&M expenses for the period 2014-19.

i) The year-wise impact in O&M due to implementation of pay revision of Petitioner's employees, CISF personnel, GST and Minimum Wages is tabulated below:

<i>(Rs. in lakh)</i>				
<b>Description/Financial Year</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
Impact of Pay revision of Executives	0.00	337.00	1407.00	1512.00
Impact of Pay revision of Supervisors	0.00	24.00	99.00	106.00
Impact of Pay revision of Workmen	0.00	249.00	1039.00	1117.00
Impact of GST	0.00	0.00	79.96	225.01
Minimum Wages	0.00	2.33	11.52	8.92
Security Expenses (CISF)	329.81	564.96	738.08	907.20
<b>Total</b>	<b>329.81</b>	<b>1177.29</b>	<b>3374.56</b>	<b>3876.13</b>

j) The detailed break up of impact of pay revision, Security expenses, GST and Minimum Wages, duly audited by the statutory auditors, has been submitted.

k) When the pay revision of CISF & Petitioner's employees were implemented w.e.f. 11.2006 and 1.1.2007 respectively, the Petitioner had approached the Commission for reimbursement of additional expenses through tariff vide Petition No.86/MP/2013. The said petition was decided by order dated 14.2.2014 admitting the claim of the Petitioner.

l) The Commission while notifying the 2019 Tariff Regulations, applicable for the period 2019-24, has also not factored the impact of wage revision in O&M expense norms as is evident from Para-10.7.4 of the SOR to the 2019 Tariff Regulations. The impact in respect of revision of minimum wage, pay revision and GST shall be in accordance with Regulation 35(2)(a) of the 2019 Tariff Regulations. Thus, the intent of regulatory provisions is to allow separate reimbursement of O&M





expenses on account of pay revision, Security expenses, GST and Minimum Wages, in case of hydro generating stations.

m) The 2014 Tariff Regulations, do not specifically provide for the reimbursement of expenses on account of pay revision, Security expenses, Minimum Wages and GST. However, under Regulation 55 of the 2014 Tariff Regulations, the Commission, is vested with the power to remove difficulty (if any) in implementing the provisions of said regulations and also under Regulation 54 (powers to relax), the provision of the regulations.

### **Hearing dated 20.8.2020**

6. The Petition was admitted on 20.8.2020 and notice was issued to the Respondents with directions to complete pleadings in the matter. In response, the Respondent MPPMCL, Respondent UPPCL have filed their replies vide affidavits dated 14.8.2020 and 14.9.2020 respectively and the Petitioner has filed its rejoinder to the said replies vide its separate affidavits dated 25.9.2020. The Petitioner has also filed the additional information vide its affidavit dated 8.9.2020, after serving copy on the Respondents.

### **Hearing dated 17.3.2021**

7. The Petition was heard through virtual hearing on 17.3.2021 and the Commission, directed the Petitioner to file certain additional information. In compliance to the directions, the Petitioner vide affidavit dated 24.5.2021 has filed the additional information, after serving copy on the Respondents.

### **Hearing dated 25.1.2022**

8. During the hearing of the Petition, through virtual hearing on 25.1.2022, the learned counsel for the Petitioner and the learned counsel for the Respondent BRPL made detailed oral submissions. The learned counsel for the Respondent, BYPL adopted the



submissions of the Respondent BRPL. The representative of the Respondent, MPPMCL submitted that the reply filed by the Respondent may be considered at the time of disposal of the petition. The Commission, after directing the Petitioner to file certain additional information and completion of pleadings, reserved its order in the petition.

9. In compliance to the directions of the Commission vide ROP of the hearing dated 25.1.2022, the Petitioner vide affidavit dated 12.2.2022, has filed the additional information, after serving copy on the Respondents. The Respondent BRPL has filed its reply vide affidavit dated 4.5.2022 and the Petitioner vide affidavit dated 4.5.2022, has filed its rejoinder to the said reply. Taking into consideration the submissions of the parties, and the documents on record, we proceed to examine the reliefs sought by the Petitioner, in the present petition, on prudence check, as stated in the subsequent paragraphs:

***Reply of the Respondent MPPMCL***

10. The Respondent MPPMCL vide its reply affidavit dated 14.8.2020 has mainly submitted the following:

- a) From the reading of OM dated 3.8.2017 of the Ministry of Heavy Industries & Public Enterprises, it is evident that the Petitioner has to bear the financial implications on its own and the Respondents are not liable to bear the burden on this count.
- b) Regulation 29(3)(b)(ii) of the 2014 Tariff Regulations allows the escalation @6.64% per annum for O&M expenses during the period 2014-19, which is sufficient to cover the increase in O&M expenses.
- c) The provisions of the 2014 Tariff Regulations provide for 'deviation from norms' which allows deviation from norms, if the actual parameters are better than the norms. The principle that 'the tariff is a composite package and any element cannot



be seen as isolation' is well established. The tariff determined on normative basis needs to be compared with the expenditure actually incurred and individual elements cannot be seen in isolation. In view of above, if the employee expenses have to be allowed over and above the normative O&M expenses, then all other normative parameters will also be required to be examined to excess the overall loss/ gain to the Petitioner for arriving at reasonable and justifiable proposition.

d) There is no provision in the 2014 tariff Regulations or revision of O&M expenses and therefore the claim of the petitioner is liable to be rejected. The high O&M rates will ultimately overburden the end consumers, which should be consistent with the provision of the Act.

The Petitioner has also claimed impact of GST in year 2017-18 and 2018-19 without providing proper documents/ supporting statements. On perusal of profit & loss statement, it is seen that during whole tariff period, taxes paid by the Petitioner were nil. Moreover, the Petitioner has already earned pre-tax RoE despite 'nil' taxes liability.

### ***Reply of the Respondent UPPCL***

11. The Respondent, UPPCL in its reply dated 14.9.2020 has mainly submitted as under:

a) The issue in respect to the impact of revised employee cost, essentially falls under the head 'employee cost and corporate office expenses'. Therefore, no purpose is served if the total of the actual O&M expenses is compared with those approved by the Commission vide order dated 4.6.2019. The Petitioner should compare the actual impact on the revised employee cost of Rs. 8757.79 lakh with that correspondingly approved by the Commission under head 'employee cost and corporate office expenses' for 2014-19

b) The Petitioner is required to establish the incurred cost based on detailed calculations made on the basis of numbers of employees (Directors, executives, supervisors, workmen etc. on regular appointment); security personnel, skilled & unskilled manpower minimum wages category, casual labors and others existed as on 1.4.2014 and that existing as on 1.1.2016.

c) The Petitioner in its truing up petition (245/GT/2020) had not covered the claim towards the impact on revision in employee cost, GST and security expenditure.



The claim of the Petitioner is 'stand-alone' in nature and cannot be accepted unless the deficiency of information is cured with the support of calculation by the Petitioner.

d) Since, the O&M expenses include manpower expenses and element of sales tax & excise on stores and spares used in O&M of the project, as such the claim on this account can only be raised in this Petition provided it is derived based on the relevant expenditures allowed while determining tariff for the period 2014-19 and those actually incurred by the Petitioner during this period. Similarly, the impact on revision in pay of employees, security personnel, and workers covered under minimum wages and due to GST has to be worked out by the Petitioner.

### ***Reply of the Respondent BRPL***

12. The Respondent, BRPL in its reply dated 25.2.2022 has mainly submitted the following:

(a) The request of the Petitioner seeking relaxation under Regulations 54 and 55 should be limited to parameters laid down by the Hon'ble Supreme Court in Mahadeva Upendra Sinai v UOI & ors (1975 AIR 797) as otherwise, no sanctity in the norm-based tariff, under cost plus mechanism of tariff determination will be left.

(b) Paragraph 33.2 of the SOR to the 2014 Tariff Regulations provides the view of the Commission and the conditionalities prescribed on the impact of wage revision. The data furnished by the Petitioner does not support the critical examination on all the conditionalities mentioned therein. The Petitioner has included the impact of increase in ceiling limit of gratuity in their proposal, while the Commission has provided only for increase in employee expenses in wage revision.

(c) The petition is also silent as to whether the reimbursement of the wage revision also included the wage revision of employees engaged in other activities like the Consulting, Planning and Designing of the national/inter-national projects. If these employees are included, the wage revision of these employees, are required to be deleted, as they are in no way connected to generation from existing projects.

(d) The Auditor's certificate, in its current form is too vague and accordingly, the reimbursement of wage revision must be taken from the "Due Drawn Statement" of the employees engaged in generation of power.



## **Rejoinder of the Petitioner to the replies of the Respondents**

13. In response to the replies of the Respondents above, the Petitioner vide its rejoinder affidavits has mainly clarified as under:

### ***Rejoinder to the reply of MPPMCL***

a) The pay revision which came into effect from 1.1.2016 for the Security personnel and 1.1.2017 for Petitioners' employees were not taken into account while fixing the norms for the hydro generating stations by this Commission.

b) Legitimate expenditures incurred by the Petitioner on account of wage revision of employees, impact of GST, Minimum Wages and Security expenses (CISF) have to be serviced as the same have not been factored in the norms. Pay and allowances, Security expenses, GST etc. are mandatory expenditures and are a necessary input to determine cost of electricity;

c) The Petitioner has incurred expenditure of Rs. 36854.60 lakh over and above the normative O&M expenses provided for under Regulation 29(3)(c) of the 2014 Tariff Regulations for the period 2014-19.

d) The arguments of the Respondent regarding the profits of the Petitioner Company and the notification of Ministry of Heavy Industries & Public Enterprise dated 3.8.2017 are irrelevant as the Petitioner has not taken any budgetary support from Government for implementation of pay revision of employees.

e) It cannot be that irrespective of the additional costs which the Petitioner has to incur on account of the above reasons, they will continue to supply the power to the beneficiaries at the same cost. This would be contrary to Section 61(d) of the Electricity Act, 2003. The Respondent has not pointed out to any mistake in the data furnished as regards claim for the additional O&M expenses. Moreover, the escalation @6.64% per annum in the O&M expenses provided for in the 2014 Tariff Regulations is not sufficient to cover the expenses claimed in this petition;

f) The impact of GST on the O&M expenses in 2017-18 and 2018-19 is Rs. Rs. 106.84 lakh and Rs 74.86 lakh respectively. The Petitioner pays income tax on the total income earned from all the projects and the statement of income tax paid is shown in the balance sheet of the Company that is available in public domain (thdc.co.in). Return on Equity has been computed by grossing up the base rate with the actual rate of MAT/ effective tax rate applicable for the period 2014-15 to 2018-19, which the Company has actually paid. The Petitioner maintains books project/ unit wise and consolidates the accounts for company as a whole.



### ***Rejoinder to the reply of UPPCL***

a) The pay revision which came into effect from 1.1.2016 and 1.1.2017 were not considered while fixing the norms for the hydro generating stations by this Commission. In view of this, the Commission has rightly held vide order dated 1.12.2016 as well as in the SOR to the 2014 Tariff Regulations, that it will consider the claim of the O & M expenses, on a case to case basis. The Petitioner has given detailed information regarding the impact on the O & M expenses on account of wage revision of employees, Impact of GST, Minimum Wages and Security expenses (CISF);

b) The legitimate expenditures incurred by Petitioner on account of wage revision of employees, Impact of GST, Minimum Wages and Security expenses (CISF) have to be serviced as the same have not been factored in the norms. Pay and allowances, Security expenses, GST etc. are mandatory expenditures and are a necessary input to determine cost of electricity. In terms of Section 61(d) of the Electricity Act, 2003 the above expenditure has to be allowed as otherwise it would result in under recovery of cost of electricity by the Petitioner;

c) The O&M expenses has been allowed on normative basis, which do not have individual details of the expenses on employee cost, Security expenses, stores & spares, administrative expenses and Corporate expenses etc. The actual O&M expenses incurred by the Petitioner has details of construction of stores and spares, administrative expenses, employee cost, corporate expenses and other expenses along with the detail of number of employees and the same has been submitted before this Commission.

### ***Rejoinder to the Reply of BRPL***

a) The power to remove difficulties and power to relax are well known methods of the legislative drafting. The basis for retaining such power is that it is not possible to envisage all situations and more particularly the implications of general regulations notified for all persons, as to how the same would affect in a peculiar circumstance, concerning a particular generating station, as in the present case.

b) Normative O&M expenses allowed for this generating station for the period 2014-19 are inadequate/ insufficient because legitimate actual O&M expenses are more than the allowed normative O&M expenses. The details of the impact on account of wage revision of employees, Impact of GST, Minimum Wages and Security expenses (CISF) are provided in the petition. It is denied that the Petitioner has not provided the necessary documents. On 2.9.2021, the Petitioner received a letter from CISF wherein the chart for 2016-17 to 2018-19, stating the month wise difference amount



between the revised and old payment figures include from August, 2016 to March 2019.

c) The impact of wage revision has been worked out from the due drawn statement. Dues has been indicated as post revised salary and drawn has been indicated as pre-revised salary in the Annexure-C of the response to ROP. The impact of wage revision of employees has been claimed for the employees connected to this generating station only.

### **Analysis and Decision**

14. The Petitioner has filed this petition under Regulations 54 and 55 of the 2014 Tariff Regulations which provides as under:

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

*55. Power to Remove Difficulties: If any difficulty arises in giving effect to these regulations, the Commission may, of its own motion or otherwise, by an order and after giving a reasonable opportunity to those likely to be affected by such order, make such provisions, not inconsistent with these regulations, as may appear to be necessary for removing the difficulty.”*

15. The Petitioner has submitted that Regulation 29(3)(c) of the 2014 Tariff Regulations has not factored in the impact of revision in salary and wages of public sector enterprise's employees, with effect from 1.1.2017 and pay revision of CISF employees, posted at its generating stations with effect from 1.1.2016. It has submitted that the recommendations of the Seventh Pay Commission and the decision of the Department of Public Enterprises, Government of India were implemented after the notification of the 2014 Tariff Regulations and hence the impact of pay revision of the employees of the Petitioner, CISF were not 'factored in' while framing the said regulations. Accordingly, the Petitioner has sought the recovery of the actual expenditure incurred towards wage revision and salary revision, by exercise of the power by the Commission, under Regulations 54 and 55 of



the 2014 Tariff Regulations. The Respondent BRPL has submitted that the request of the Petitioner seeking relaxation under Regulations 54 and 55 should be limited to parameters laid down by the Hon'ble Supreme Court in Mahadeva Upendra Sinai v UOI & ors (1975 AIR 797) as otherwise, no sanctity in the norm-based tariff, under cost plus mechanism of tariff determination will be left. In response, the Petitioner has submitted that legitimate expenditure incurred by Petitioner on account of wage revision of employees, etc., have to be serviced as the same have not been factored in the norms.

16. We have considered the submissions of the parties. The Commission, while deciding the O&M expense norms applicable for the 2014-19 tariff period, had considered the comments /suggestions of the stakeholders, including the Petitioner herein, with regard to the recovery of additional impact of wage/pay revision, on actual basis, and vide SOR to the 2014-19 Tariff Regulations, observed the following:

*“29.26 Some of the generating stations have suggested that the impact of pay revision should be allowed on the basis of actual share of pay revision instead of normative 40% and one generating company suggested that the same should be considered as 60%. In the draft Regulations, the Commission had provided for a normative percentage of employee cost to total O&M expenses for different type of generating stations with an intention to provide a ceiling limit so that it does not lead to any exorbitant increase in the O&M expenses resulting in spike in tariff. The Commission would however, like to review the same considering the macroeconomics involved as these norms are also applicable for private generating stations. In order to ensure that such increase in employee expenses on account of pay revision in case of central generating stations and private generating stations are considered appropriately, the Commission is of the view that it shall be examined on case to case basis, balancing the interest of generating stations and consumers.*

Xxx

*30.18 In response to the suggestions of the generators to recover additional impact of pay revisions on actual basis, it is clarified that the Commission in the draft Regulations had provided a normative percentage of employee cost to total O&M expenses for different type of generating stations with an intention to provide a ceiling limit so that the same should not lead to any exorbitant increase in the O&M expenses resulting in spike in tariff. The Commission, however, would like to review the same considering the macroeconomics involved as these norms are also applicable for private generating*





stations. In order to ensure that such increase in employee expenses on account of pay revision in case of central generating stations and private generating stations is justified, the Commission is of the view that it shall examine the increase on case to case basis and shall consider the same if found appropriate to ensure that overall impact at the macro level is sustainable and justified.

Xxx

Commission's Views

*33.2 The draft Regulations provided for a normative percentage of employee cost to total O&M expenses for generating stations and transmission system with an intention to provide a ceiling limit so that the same should not lead to any exorbitant increase in the O&M expenses resulting in spike in tariff. The Commission shall examine the increase in employee expenses on case to case basis and shall consider the same if found appropriate, to ensure that overall impact at the macro level is sustainable and thoroughly justified. Accordingly, clause 29(4) proposed in the draft Regulations has been deleted. The impact of wage revision shall only be given after seeing impact of one full year and if it is found that O&M norms provided under Regulations are inadequate/insufficient to cover all justifiable O&M expenses for the particular year including employee expenses, then balance amount may be considered for reimbursement"*

17. It is apparent from the above that the pay revision with effect from 1.1.2016 and wage revision with effect from 1.1.2017, were never taken into consideration while fixing the O&M expense norms for the hydro generating station, under the 2014 Tariff Regulations. Had the pay revision or wage revision taken place at the time the norms were decided, the Commission would certainly have taken into account its impact, while fixing the norms. In other words, the legitimate expenditure incurred by the Petitioner are not being serviced as the same have not been factored in the norms. Section 61(d) of the Act provides that one of the guiding factors for determination of the terms and conditions of tariff is to safeguard consumer interest while ensuring recovery of the cost of electricity in a reasonable manner. Pay and allowances are mandatory expenditures and are a necessary input to determine cost of electricity. The said expenditure could not be factored at the time of determination of the norms, since the pay revision came into force w.e.f. 1.1.2006 in respect of CISF personnel and w.e.f. 1.1.2007 in respect of the



employees of the Petitioner. If the impact of pay revision or wage revision is denied, it would result in under recovery of cost of electricity by the generating company. Therefore, in our considered view, a clear case has been made out to remove the difficulty arising out of the non-consideration of the impact of wage/pay revision in the O&M expense norms for the 2014-19 tariff period.

18. Before we proceed to examine the merits of the prayers of the petitioner, it is considered appropriate to deal with some of the objections raised by the Respondents, as stated in subsequent paragraphs.

19. The Respondent UPPCL has contended that the Petitioner has filed truing-up petition (Petition No. 245/GT/2020), but has not covered the claim towards impact on revision on employee cost, GST and security expenditure. It is noticed that in Petition No.245/GT/2020 filed by the Petitioner, it was submitted by the Petitioner that it had filed the present petition for recovery of impact of wage revision of its employees, impact of GST, Minimum Wages and Security expenses in Central Industrial Security Force (CISF) in respect of this generating station for the period from 1.1.2016 to 31.3.2019. Accordingly, based on this submission, the Commission vide its order dated 14.9.2022 observed that the additional O&M claim of the Petitioner for recovery of impact of wage revision of its employees etc., in respect of the generating station during the period 1.1.2016 to 31.3.2019, shall be dealt with in the present petition.

20. The Respondent MPPMCL has contended that the OM dated 3.8.2017 of the Ministry of Heavy Industries & Public Enterprises, based on which pay revision of



employees of the Petitioner has been claimed, provides that the Petitioner has to bear the financial implications by its own and therefore the Respondents may not be burdened with such expenses. The Petitioner has however clarified that as provided in the said OM, no budgetary support has been sought by the Petitioner. Admittedly, the 2014 Tariff Regulations notified by the Commission for the 2014-19 tariff period, has not factored in the impact of revision in salary and wages of employees of the Petitioner, with effect from 1.1.2017 and pay revision of CISF personnel, posted at the generating station of the Petitioner, with effect from 1.1.2016. In our view, the additional expenditure incurred on salary and wages of the generating company form part of the cost of electricity and needs to be serviced. The financial difficulties of the Respondents cannot be a ground for not paying for the cost of power which has been supplied to the Respondent beneficiaries. By parity of reasoning, we are of the considered view that the Petitioner should be suitably compensated for the wage/pay revision from 1.1.2016/1.1.2017 till 31.3.2019. The Hon'ble Supreme Court in West Bengal Electricity Regulatory Commission v CESC Limited (2002) 8 SCC 715, has observed that employees' cost prudently incurred, needs to be reimbursed to the utility.

21. In view of the above discussion, the objections of the Respondents cannot be sustained. However, the Commission has the mandate to balance the interest of the consumers and recovery of the cost of electricity in a reasonable manner. Therefore, the Commission is required to find out an equitable solution to the problem so that the generating company is not deprived of its legitimate dues, while ensuring that it does not result in unmanageable tariff burden on the beneficiaries



22. In the present case, the Petitioner, has claimed the impact of wage/pay revision, with effect from 1.1.2016 and 1.1.2017 respectively, pursuant to the observations of the Commission in paragraph 33.2 of the SOR (supra) and after implementation of the pay revision of the employees of the Petitioner, with effect from 1.1.2017, and wage revision of CISF Personnel, with effect from 1.1.2016, impact of GST and Minimum Wages, based on the decision of the Central Government on the 7<sup>th</sup> CPC recommendations in 2016, the OMs of DPE (in support of implementation of 3<sup>rd</sup> PRC) and subsequent office orders of the Petitioner.

23. The Commission vide ROP of the hearing dated 17.3.2021 had directed the Petitioner to furnish the following additional information:

- (i) *Basis and rationale for claim on account of impact due to minimum wage revision;*
- (ii) *Basis and rationale for claim on account of Security expenses for CISF separately for 2014-19 tariff period, in place of impact of wage revision in respect of the CISF employees.*

24. Further, Commission vide ROP of the hearing dated 25.1.2022, had directed the Petitioner to furnish the following additional information:

- (a) *Revised total claim in lieu of revision of impact of wage revision of CISF;*
- (b) *Breakup details of expenditure under the head 'Others';*
- (c) *Reason for indicating same value of PRP for pre-Pay Revision and post Pay Revision period in the claim for impact for wage revision;*
- (d) *Actual impact of wage revision claimed for the period 2015-16 i.e., from 1.1.2016 to 31.3.2016;*
- (e) *Breakup of O&M expenditure and impact claimed as per below details with proper linkage in M.S. Excel:*
  - (i) *Breakup of the actual O&M expenses of the generating station for the 2014-19 tariff period, under various subheads (as per Annexure-A enclosed) after including the pay revision impact (employees, and Meghalaya Home Guards) (in both MS Excel and PDF format);*
  - (ii) *Break-up of the actual O&M expenses of Corporate Centre/other offices including pay revision impact (as per Annexure-B enclosed) of the generating*



station for the along with the allocation of total O&M expenses to the various generating stations which are under construction, operational stations and any other offices/business activity along with basis of allocating such expenditure (in both MS Excel and PDF format);

(iii) Break-up of the pay revision impact claimed in respect of employees of the Petitioner & CISF stationed at the generating station and Corporate Centre/other offices employee cost allocated to the generating station (as per Annexure-C enclosed);

25. In compliance with the above directions, the Petitioner has furnished the additional information, vide affidavits dated 24.5.2021 and 12.2.2022, after serving copy on the Respondents. The Petitioner vide its affidavit dated 12.2.2022 has revised its total claim in lieu of revision of impact of wage revision of CISF. Accordingly, the year-wise impact in the O&M expenses due to implementation of pay revision of Petitioner's employees, CISF personnel, implementation of GST and increase in Minimum Wages are as follows:

<i>(Rs. in lakh)</i>						
Sl. No.	Description	2015-16	2016-17	2017-18	2018-19	Total
1	Impact of Pay revision of Executives	0.00	337.00	1407.00	1512.00	3256.00
2	Impact of Pay revision of Supervisors	0.00	24.00	99.00	106.00	229.00
3	Impact of Pay revision of Workmen	0.00	249.00	1039	1117.00	2405.00
	THDCIL employee(s) pay revision impact	0.00	610.00	2545.00	2735.00	5890.00
4	Security Expenses (CISF)	12.09	52.45	69.40	85.30	219.24
	Total wage revision impact (THDCIL employee(s) and CISF)	12.09	662.45	2614.40	2820.30	6109.24
5	Impact of GST	0.00	0.00	79.96	225.01	304.97
6	Minimum Wages	0.00	2.33	11.52	8.92	22.77
	<b>Total Impact</b>	<b>12.09</b>	<b>664.78</b>	<b>2705.88</b>	<b>3054.23</b>	<b>6436.98</b>

26. The Petitioner has submitted that the Commission has not factored the impact of pay revision of employees in the normative O&M expenses allowed for the generating station for the 2014-19 tariff period. The Petitioner has claimed the impact of pay revision



of the employees of the Petitioner with effect from 1.1.2017, and wage revision of CISF/KV staff, with effect from 1.1.2016. The Petitioner has also pointed out to paragraph 10.7.4 of the SOR to 2019 Tariff Regulations, wherein it was decided that the impact on O&M expenses on account of pay revision, escalation in Minimum wages and GST, will be considered for each hydro generating station separately, at the time of determination of tariff for the 2019-24 tariff period. The Petitioner has also submitted that as the 2014 Tariff Regulations, does not specifically provide for the reimbursement of expenses on account of wage/pay revision, the same may be allowed under Regulation 54 and Regulation 55 of the 2014 Tariff Regulations. The claim of the Petitioner does not, however, include the impact on account of the payment of additional PRP/ex-gratia to its employees, consequent upon wage revision.

***Additional O&M expenses on account of pay revision of Petitioners employees' and CISF personnel***

27. As regards the recovery of impact of pay revision by a generating company, the SOR to the 2014 Tariff Regulations provides as under:

*"29.26 Some of the generating stations have suggested that the impact of pay revision should be allowed on the basis of actual share of pay revision instead of normative 40% and one generating company suggested that the same should be considered as 60%. In the draft Regulations, the Commission had provided for a normative percentage of employee cost to total O&M expenses for different type of generating stations with an intention to provide a ceiling limit so that it does not lead to any exorbitant increase in the O&M expenses resulting in spike in tariff. The Commission would however, like to review the same considering the macroeconomics involved as these norms are also applicable for private generating stations. In order to ensure that such increase in employee expenses on account of pay revision in case of central generating stations and private generating stations are considered appropriately, **the Commission is of the view that it shall be examined on case to case basis, balancing the interest of generating stations and consumers.***

*33.2 The draft Regulations provided for a normative percentage of employee cost to total O&M expenses for generating stations and transmission system with an intention to provide a ceiling limit so that the same should not lead to any exorbitant increase in the O&M expenses resulting in spike in tariff. The Commission shall examine the increase in*



*employee expenses on case to case basis and shall consider the same if found appropriate, to ensure that overall impact at the macro level is sustainable and thoroughly justified. Accordingly, clause 29(4) proposed in the draft Regulations has been deleted. **The impact of wage revision shall only be given after seeing impact of one full year and if it is found that O&M norms provided under Regulations are inadequate/insufficient to cover all justifiable O&M expenses for the particular year including employee expenses, then balance amount may be considered for reimbursement.***

28. The methodology indicated in the SOR as above, suggests a comparison of the normative O&M expenses with the actual O&M expenses, on a year to year basis. The norms for O&M expenses are framed based on the averaging of the actual O&M expenses of past five years to capture the year on year variations in sub-heads of O&M. However, in the present case, the generating station had achieved COD on 1.4.2012. Accordingly, the O&M expense norms framed were not based on past data, but only based on the original project cost (cut-off date cost) in terms of Regulation 29 (3) (c) of the 2014 Tariff Regulations, which is extracted below:

*“29(3)(c) In case of the hydro generating stations, which have not been in commercial operation for a period of three years as on 1.4.2014 operation for a period of three years as on 1.4.2014, operation and maintenance expenses shall be fixed at 2% of the original project cost (excluding cost of rehabilitation and resettlement works) for the first year of commercial operation. Further, in such case, operation and maintenance expenses in first year of commercial operation shall be escalated @6.04% per annum up to the year 2013-14 and then averaged to arrive at the O&M expenses at 2013-14 price level. It shall be thereafter escalated @ 6.64%per annum to arrive at operation and maintenance expenses in respective year of the tariff period.”*

29. In consideration of above facts, we find it appropriate to compare the O&M expenses allowed to the generating station with the actual O&M expenses for a longer duration so as to capture the variation in the sub-heads due to above-mentioned facts. Accordingly, it is decided that for ascertaining that the O&M expenses provided under the 2014 Tariff Regulations are inadequate/insufficient to cover all justifiable actual O&M expenses (including employee expenses), the comparison of the normative O&M expenses allowed



by the Commission and the actual O&M expenses incurred by the Petitioner shall be made for four years i.e. 2015-19 period on a combined basis, which is commensurate with the wage revision claim being spread over these four years.

30. The Petitioner has claimed additional O&M expenses of Rs.12.09 lakh in 2015-16, Rs.662.45 lakh in 2016-17, Rs.2614.40 lakh in 2017-18 and Rs.2820.30 lakh in 2018-19 towards impact of wage revision of employees of CISF personnel with effect from 1.1.2016 and for the employees of the Petitioner posted at the generating station, with effect from 1.1.2017. The Petitioner has also clarified that its claim does not include the impact on account of the payment of additional PRP/ex-gratia to its employees, consequent upon wage revision. As such, in terms of the SOR as quoted above, the following approach has been adopted for arriving at the allowable impact of pay revision.

31. First step is to compare the normative O&M expenses with the actual O&M expenses for the period from 2015-16 to 2018-19, commensurate to the period for which wage revision impact has been claimed. For like to like comparison, the components of O&M expenses like productivity linked incentive, expenses on superannuated employees, miscellaneous transfer to CSR and IEDC, RLDC fee & charges which were not considered while framing the O&M expenses norms for the 2014-19 tariff period, have been excluded from the yearly actual O&M expenses of the generating station as well as corporate center. Having brought the normative O&M expenses and actual O&M expenses at same level, if normative O&M expenses for the period 2015-19 are higher than actual O&M expenses (normalized) for the same period, the impact of wage revision (excluding PRP and ex-gratia) as claimed for the period is not admissible/ allowed as the





impact of pay revision gets accommodated within the normative O&M expenses. However, if the normative O&M expenses for the period 2015-19 are less than the actual O&M expenses (normalized) for the same period, the wage revision impact (excluding PRP and ex-gratia) to the extent of under recovery or wage revision impact (excluding PRP and ex-gratia), whichever is lower, is required to be allowed as wage revision impact for the period 2015-19.

32. As stated, for a like to like comparison of the actual O&M expenses and normative O&M expenses, the expenditure against O&M expenses sub-heads as discussed above, has been excluded from the actual O&M expenses to arrive at the actual O&M expenses (normalized) for the instant generating station. Accordingly, the following table portrays the comparison of normative O&M expenses versus the actual O&M expenses (normalized) along with wage revision impact claimed by the Petitioner for the generating station for period 2015-19 (on combined basis) commensurate with the wage revision claim being spread over these four years:

		<i>(Rs. in lakh)</i>				
Sl. No		2015-16	2016-17	2017-18	2018-19	Total
1	Actual O&M expenditure for generating station <b>(a)</b>	11790.84	15685.46	17072.24	22418.53	<b>66967.07</b>
2	Actual O&M expenses (normalized) <b>(b)</b>	11400.87	14961.57	15968.54	19954.41	<b>62285.39</b>
3	Normative O&M allowed vide order dated 3.1.2020 in 245/GT/2020 <b>(c)</b>	6142.05	6549.88	6984.79	7448.58	<b>27125.30</b>
4	Under-recovery <b>(d) = (b)-(c)</b>	5258.82	8411.69	8983.75	12505.83	<b>35160.09</b>
5	Revised wage revision impact (excluding impact of GST & Minimum wages)	12.09	662.45	2614.40	2820.30	<b>6109.24</b>

33. It is observed that during the period from 2015-16 to 2018-19, the normative O&M expenses allowed is lesser than the actual O&M expenses incurred and the under-



recovery is to the tune of Rs.35160.09 lakh. As such, in terms of methodology described above, the total wage revision impact (excluding PRP/incentive) is Rs. 6109.24 lakh (as calculated in the table above) is allowable. APTEL in the case of NTPC V MPSEB (2007 ELR APTEL 7) has held as under:

*“It must be held, that the power comprised in Regulation 13 is essentially the “power to relax”. In case any Regulation causes hardship to a party or works injustice to him or application thereof leads to unjust result, the Regulation can be relaxed. The exercise of power under Regulation 13 of the Regulations is minimized by the requirement to record the reasons in writing by the Commission before any provision of the Regulations is relaxed. Therefore, there is no doubt that the Commission has the power to relax any provision of the Regulations.”*

34. Accordingly, we, in exercise of Power to relax under Regulation 54 of the 2014 Tariff Regulations hereby relax Regulation 29(3)(c) of the 2014 Tariff Regulations and allow the reimbursement of total wage revision /pay revision impact Rs. 6109.24 lakh to the Petitioner, as additional O&M expenses for the period 2015-19.

35. The arrears payments on account of the above allowed wage revision/pay revision impact is payable by the beneficiaries in twelve equal monthly installments, starting from December, 2022. Keeping in view the passage of time and in consumer interest, we, as an exceptional case, direct that no interest shall be charged by the Petitioner on the arrear payments on the wage/pay revision impact, as allowed in this order. This arrangement, in our view, will balance the interest of both, the Petitioner and the Respondents. Further, in view of the fact that wage/pay revision impact has been allowed in exercise of the power to relax, these expenses shall not be made part of the O&M expenses and consequent annual fixed charges for this generating station for the 2014-19 tariff period.



### ***Impact due of GST implementation***

36. The Petitioner has claimed additional O&M expenses of Rs.79.96 lakh in 2017-18 and Rs.225.01 lakh in 2018-19 on account of payment of GST. The Respondent, MPPMCL has submitted that the Petitioner has claimed impact of GST in 2017-18 and 2018-19 without providing proper documents/ supporting statements. It has also submitted that during the whole tariff period, taxes paid by the Petitioner, were nil and the Petitioner has already earned pre-tax ROE despite nil taxes liability.

37. The matter has been considered. It is noted that the Regulation 29(3)(c) of the 2014, Tariff Regulations provides as follows:

*“29(3)(c) In case of the hydro generating stations, which have not been in commercial operation for a period of three years as on 1.4.2014, operation and maintenance expenses shall be fixed at 2% of the original project cost (excluding cost of rehabilitation and resettlement works) for the first year of commercial operation. Further, in such case, operation and maintenance expenses in first year of commercial operation shall be escalated @6.04% per annum up to the year 2013 - 14 and then averaged to arrive at the O&M expenses at 2013-14 price level. It shall be thereafter escalated @ 6.64%per annum to arrive at operation and maintenance expenses in respective year of the tariff period.”*

38. The submissions have been considered. It is observed that the Commission while specifying the O&M expense norms of generating stations (including the norms for new generating stations) for the 2014-19 tariff period had considered taxes to form part of the O&M expense calculations and accordingly, had factored the same in the said norms. This is evident from paragraph 49.6 of the SOR (Statement of Objects and Reasons) issued with the 2014 Tariff Regulations, which is extracted hereunder:

*“49.6 With regards to suggestion received on other taxes to be allowed, the Commission while approving the norms of O&M expenses has considered the taxes as part of O&M expenses while working out the norms and therefore the same has already been factored in...”*



39. It is pertinent to mention that in case of reduction of taxes or duties; no reimbursement is ordered. In this background, we find no reason to grant additional O&M expenses towards payment of GST. Therefore, the additional O&M expenses claimed by the Petitioner on account of impact of GST is not allowed.

***Impact due to revision of Minimum Wages***

40. As regards additional O&M expenses claimed by the Petitioner due to impact of Minimum Wages, the Commission vide ROP of the hearing dated 17.3.2021 had directed the Petitioner to submit the 'basis and rationale for claim on account of impact due to revision of minimum wages. In response, the Petitioner has submitted as under:

*"THDCIL states that the Basis and rationale for arriving at amount of impact due to minimum wages is in line with the Notification issued by the Dy. Labour Commissioner (Central), Ministry of Labour & Employment, Government of India- for revised Minimum rates of wages payable to the employees employed in the "Construction or maintenance of Roads, Runways or in Building Operation including laying down underground electric, wireless, Radio, Television, Telephone, Telegraph & Overseas communication cables and similar underground cable works, electric lines, water supply lines & sewerage pipe lines".*

41. The matter has been considered. Regulation 29(3)(c) of the 2014, Tariff Regulations provides as under:

*"29(3)(c) In case of the hydro generating stations, which have not been in commercial operation for a period of three years as on 1.4.2014, operation and maintenance expenses shall be fixed at 2% of the original project cost (excluding cost of rehabilitation and resettlement works) for the first year of commercial operation. Further, in such case, operation and maintenance expenses in first year of commercial operation shall be escalated @6.04% per annum up to the year 2013 - 14 and then averaged to arrive at the O&M expenses at 2013-14 price level. It shall be thereafter escalated @ 6.64%per annum to arrive at operation and maintenance expenses in respective year of the tariff period."*

42. It is observed that the Commission while specifying the O&M expense norms of generating stations (including the norms for new generating stations) for the 2014-19 tariff period had considered wages to form part of the O&M expense calculations and



accordingly, had factored the same in the said norms. In view of this, the additional O&M expenses claimed by the Petitioner due to impact of revision of Minimum Wages in this petition is not allowed.

43. Petition No. 341/MP/2020 is disposed of in terms of the above.

**Sd/-**  
**(Pravas Kumar Singh)**  
**Member**

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

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

