CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Petition No. 133/TT/2023

Coram:

Shri Jishnu Barua, Chairperson
Shri Arun Goyal, Member

Date of Order: 17.06.2024

In the matter of:

Approval under Regulation 86 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and determination of transmission tariff from COD to 31.3.2024 under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 in respect of 02 numbers 400 kV GIS Line Bays at 765/400 kV Varanasi Sub-station covered under "Construction of 2 numbers of 400 kV Hybrid/GIS Line bays at Varanasi (PG) Sub-station" in the Northern Region.

And in the matter of:

Power Grid Corporation of India Limited,
'SAUDAMINI', Plot No-2,
Sector-29, Gurgaon-122 001 (Haryana). **.....Petitioner**

Versus

1. Ajmer Vidyut Vitran Nigam Limited,
   Corporate Office, Vidyut Bhawan,
   Panchsheel Nagar, Makarwali Road,
   Ajmer-305004.

2. Jaipur Vidyut Vitran Nigam Limited,
   Vidyut Bhawan, Janpath, Jyoti Nagar,
   Jaipur-302005.

3. Jodhpur Vidyut Vitran Nigam Limited,
   New Power House, Industrial Area,
   Jodhpur-342003.

4. Himachal Pradesh State Electricity Board Limited,
   Vidyut Bhawan, Kumar House Complex Building II,
   Shimla-171004.

5. Punjab State Power Corporation Limited,
   The Mall, PSEB Head Office,
   Patiala-147001.

6. Haryana Power Purchase Centre,
Shakti Bhawan, Sector-6,
Panchkula-134109.

7. Jammu Kashmir Power Corporation Limited,
220/66/33 kV Gladni Sub-station,
SLDC Building, Narwal, Jammu, J&K.

8. Uttar Pradesh Power Corporation Limited,
Shakti Bhawan, 14, Ashok Marg,
Lucknow-226001.

9. BSES Yamuna Power Limited,
B-Block, Shakti Kiran, Bldg. (Near Karkadooma Court)
Karkadooma, 2nd Floor,
New Delhi-110092.

10. BSES Rajdhani Power Limited,
BSES Bhawan, Nehru Place,
New Delhi-110019.

11. Tata Power Delhi Distribution Limited,
NDPL House, Hudson Lines, Kingsway Camp
Delhi-110009.

12. Chandigarh Administration,
Sector -9, Chandigarh.

13. Uttarakhand Power Corporation Limited,
Urja Bhawan,
Kanwali Road, Dehradun.

14. North Central Railway,
DRM Office, Nawab Yusuf Road,
Prayagraj, Uttar Pradesh-211011.

15. New Delhi Municipal Council,
Palika Kendra, Sansad Marg,
New Delhi-110002.

16. Uttar Pradesh Power Transmission Corporation Limited,
11th floor, Shakti Bhawan, 14- Ashok Marg,
Lucknow-226001. **...Respondent(s)**

For Petitioner : Ms. Supriya Singh, PGCIL
Shri Vivek Kumar Singh, PGCIL
Shri Amit Yadav, PGCIL
Shri Bipin Bihari Rath, PGCIL
Ms. Ashita Chauhan, PGCIL

For Respondents : Shri Mohit Mudgal, Advocate, UPPTCL
Shri Sachin Dubey, Advocate, UPPTCL
Shri Mohit Jain, Advocate, UPPTCL

ORDER

The instant petition has been filed by Power Grid Corporation of India Limited for the determination of transmission tariff under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (hereinafter referred to as "the 2019 Tariff Regulations") from COD to 31.3.2024 in respect of the two 400 kV GIS Line Bays at 765/400 kV Varanasi Sub-station (hereinafter referred to as "the transmission asset") under "Construction of 2 numbers of 400 kV Hybrid/GIS line bays at Varanasi (PG) Sub-station" (hereinafter referred to as the "transmission project") in the Northern Region".

2. The Petitioner has made the following prayers in the instant Petition:

"1) Admit the capital cost as claimed in the Petition and approve the Additional Capitalisation incurred / projected to be incurred.
2) Approve the Transmission Tariff for the tariff block 2019-24 block for the asset covered under this petition, as per para-8.3 above.
3) 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 above for respective block.
4) 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.
5) 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.
6) 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.
7) Allow the Petitioner to claim the overall security expenses and consequential IOWC on that security expenses separately.
8) Allow the initial spare as procured in the current petition in full as claimed in the

instant petition under Regulation 54 of the CERC (Terms and Condition of Tariff) Regulation,2014, "Power to Relax" and Allow the petitioner to claim the capital spares at the end of tariff block as per actual.

9) *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.*

10) *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.*

11) *Approve DOCO of Asset-1 as 25.11.2021 under the proviso 5 (2) of CERC (Terms and conditions of Tariff) Regulation, 2019.*

12) *Condone the Time overrun of all the assets as per clause 22 (2) of Tariff Regulation, 2019.*

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."

Background

3. The brief facts of the case are as follows:

a. The Investment Approval (IA) and expenditure sanction to the transmission project was accorded by the Chairman and Managing Director (Competent Authority) of the Petitioner's Company on 29.3.2020 vide Memorandum No. C/CP/PA1920-12-BK-IA013 dated 31.3.2020 at an estimated cost of ₹4763 lakh, including an IDC of ₹126 lakh based on the September 2019 price level. The project was scheduled to be put under commercial operation within 10 months from the date of IA.

b. The scope of work covered under the transmission project broadly includes:

Sub-station

765/400/220 kV Varanasi Sub-station (Extension).

400 kV Line Bays (Hybrid/GIS): 2 numbers.

c. The Petitioner has submitted the IA date as 31.3.2020 and the scheduled date of commercial operation of the transmission asset as 31.1.2021.

However, the meeting date wherein the Competent Authority accorded IA is 29.3.2020. Accordingly, we have considered the IA date as 29.3.2020 and the Scheduled Commercial Operation Date (SCOD) of the transmission asset as 29.1.2021. As per the Petitioner's claim, there is a time over-run of 298 days. However, the actual time over-run is 300 days. Accordingly, the SCOD, COD, and time over-run in the case of the transmission asset are as follows:

SCOD	COD	Time over-run
29.1.2021	25.11.2021	300 days

4. The Respondents are distribution licensees and Power Departments, which are procuring transmission service from the Petitioner, mainly beneficiaries of the Northern Region.

5. The Petitioner has served the petition on the Respondents and notice regarding filing of this petition 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 notice published in the newspapers by the Petitioner. Uttar Pradesh Power Transmission Corporation Limited (UPPTCL) Respondent No. 16 has filed its reply vide affidavit dated 25.10.2023 and has raised issues on the maintainability of the petition, time over-run, sharing of transmission charges, and capital cost claimed by the Petitioner. In response, the Petitioner has filed its rejoinder vide affidavit dated 20.11.2023.

6. This order is issued considering the submissions made by the Petitioner vide affidavits dated 16.1.2023, 20.9.2023, and 20.11.2023, reply filed by UPPTCL vide affidavit dated 25.10.2023, and rejoinder filed vide affidavit dated 20.11.2023 of the Petitioner.

7. The hearing in this matter was held on 30.10.2023, and the order was reserved.

Maintainability of the Petition

8. UPPTCL has contended that the present petition is not maintainable for the reasons that as per Regulation 5(2) of the 2019 Tariff Regulations as well as under Regulation 6.3A(3)(iv) of the 2010 Grid Code Regulations, the Petitioner is required to file a separate petition. UPPTCL has further submitted that the tariff of the transmission asset can be determined only when its COD is approved and that for approval of the COD, a separate petition is required to be filed by the Petitioner, which has not been done by the Petitioner in the present case. UPPTCL has further contended that under Regulation 6.3A(7) of the 2010 Grid Code Regulations, in case of any inconsistency arising in the provisions relating to the trial operation and commercial operation, the provisions of the 2010 Grid Code Regulations will prevail over other enactments.

9. Relying on the judgment of the Hon'ble Supreme Court in the matter of Nazir Ahmad v. Emperor [AIR 1936 PC 253], UPPTCL has contended that where power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden. UPPTCL has also contended that the Hon'ble Supreme Court reiterated the aforesaid principle in Civil Appeal No. 6350 of 2019 titled Municipal Corporation of Greater Mumbai (MCGM) v. Abhilash Lal & Ors. by holding 'that if a statute requires a thing to be done in a particular matter, it should be done in that manner or not at all'.

10. In response, the Petitioner has prayed to approve the COD of the transmission asset as 25.11.2021 under Regulation 5(2) of the 2019 Tariff Regulations as the downstream system under the scope of UPPTCL was not ready.

11. We have considered the submissions of the UPPTCL and the Petitioner and have perused the material on record. In the present circumstances, we think it is appropriate to refer the provisions of Regulation 5 of the 2019 Tariff Regulations, Regulation 6.3A(3)(iv), and Regulation 6.3A(7) of the 2010 Grid Code Regulations. The relevant extracts of the said regulations are as follows:

Regulation 5 of the 2019 Tariff Regulations

*"**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 transmission licensee seeking the approval of the date of commercial operation under this 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."

Regulation 6.3A (3) (iv) of the 2010 Grid Code Regulations

"*(iv) In case a transmission system or an element thereof is prevented from regular service on or before the Scheduled COD for reasons not attributable to the transmission licensee or its supplier or its contractors but is on account of the delay in commissioning of the concerned generating station or in commissioning of the* *upstream or downstream transmission system of other transmission licensee, the transmission licensee shall approach the Commission through an appropriate application for approval of the date of commercial operation of such transmission system or an element thereof."*

Regulation 6.3A (7) of the 2010 Grid Code Regulations Code Regulations

"7. In the event of inconsistency between the provisions relating to trial operation and commercial operation as specified in Sub-Regulation 6.3A.1 to 6.3A.6 of these regulations and the provisions of Central Electricity Regulatory Commissions (Terms and Conditions of Tariff) Regulations, 2014 or any subsequent enactment thereof, the provisions of these regulations shall prevail."

12. In terms of Regulation 5(1) of the 2019 Tariff Regulations, the commercial operation of a transmission system or element thereof and associated communication system is required to be determined in accordance with the provisions of the Grid Code.

13. As per Regulation 5(2) of the 2019 Tariff Regulations, a transmission licensee is required to file a petition before the Commission for approval of the COD if its transmission system or element thereof is ready for commercial operation but the inter-connected transmission system of other transmission licensee as per the agreed project implementation schedule is not ready for commercial operation.

14. Thus, Regulation 5(1) of the 2019 Tariff Regulations clearly provides that in relation to the date of commercial operation of the transmission system or element thereof and associated communication system, the determination will be in accordance with the provisions of the Grid Code. On the other hand, Regulation 5(2) of the 2019 Tariff Regulations speaks about a situation where a transmission system or element thereof of a transmission licence is ready for commercial operation but an inter-connected generating station or the transmission system of another transmission licensee as per the agreed project implementation schedule is not ready for commercial operation subject to other provisions mentioned thereunder. In other words, in such a situation, the transmission licensee who has executed its transmission system or

element thereof may file a petition before the Commission for approval of the date of commercial operation of such transmission system or element thereof subject to other provisions contained under Regulation 5(2) of the 2019 Tariff Regulations.

15. On the other hand, Regulation 6.3A(3)(iv) of the 2010 Grid Code Regulations clearly speaks about a situation wherein a transmission system or an element thereof is prevented from the regular service on or before the scheduled COD for which the transmission licensee or its supplier or its contractors are not responsible, but this situation has arisen due to delay in commissioning of the upstream or downstream transmission system of another transmission licensee, the transmission licensee, i.e., the one who has executed its transmission system or element thereof, is required to approach the Commission through an appropriate application for approval of the date of commercial operation of such transmission system or an element thereof.

16. On perusal of the provisions contained under Regulation 5 of the 2019 Tariff Regulations and Regulation 6.3A(3)(iv) of the Grid Code, we do not find any substance in the contentions of the UPPTCL that a separate petition or a separate application is required to be filed only for the purpose of approval of the date of commercial operation. It is noted that since in the present case, the downstream line, i.e., the 400 kV D/C Jaunpur (UPPTCL)-Varanasi (PG) transmission line under the scope of work of UPPTCL was not ready, there is no requirement to file a separate Petition for the approval of the COD. Therefore, the Petitioner has rightly invoked the provisions of Regulation 5(2) of the 2019 Tariff Regulations by filing the present petition for approval of the COD as well as the tariff of the transmission asset. Accordingly, the contentions raised by the UPPTCL are misconceived and are rejected. We hold that the present

petition filed by the Petitioner is maintainable for the determination of the transmission tariff.

DETERMINATION OF ANNUAL FIXED CHARGES FOR THE 2019-24 TARIFF PERIOD

17. The Petitioner has claimed the following transmission charges in respect of the transmission asset for the 2019-24 tariff period:

(₹ in lakh)

Particulars	2021-22 (pro-rata for 127 days)	2022-23	2023-24
Depreciation	57.84	178.86	195.20
Interest on Loan	43.28	126.92	128.19
Return on Equity	59.36	183.56	200.33
Interest on Working Capital	2.74	8.31	8.81
O&M Expenses	16.78	49.92	51.67
Total	**180.00**	**547.57**	**584.20**

18. The Petitioner has claimed the following Interest on Working Capital (IWC) in respect of the transmission asset for the 2019-24 tariff period:

(₹ in lakh)

Particulars	2021-22 (pro-rata for 127 days)	2022-23	2023-24
O&M Expenses	4.02	4.16	4.31
Maintenance Spares	7.23	7.49	7.75
Receivables	63.78	67.51	71.83
Total Working Capital	75.03	79.16	83.89
Rate of Interest (in %)	10.50	10.50	10.50
Interest on Working Capital	**2.74**	**8.31**	**8.81**

Date of Commercial Operation ("COD")

19. The Petitioner has claimed the proposed COD in respect of the transmission asset as 25.11.2021 under Regulation 5(2) of the 2019 Tariff Regulations as the associated downstream transmission line under the scope of UPPTCL was not ready.

20. In support of the proposed COD of the transmission asset, the Petitioner has submitted a copy of the Central Electricity Authority (CEA) Energization Certificate

dated 26.10.2021 issued under Regulation 43 of the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010; Northern Regional Load Despatch Centre (NRLDC) 'No Load' charging letter dated 2.12.2021 and CMD Certificate as required under the provisions of the Grid Code.

21. The transmission asset was charged on a "No Load" basis on 23.11.2021 due to the non-availability of the associated downstream network, i.e., the 400 kV D/C Jaunpur (UPPTCL)-Varanasi (PG) transmission line of UPPTCL. In support of this, the Petitioner has attached the NRLDC letter dated 2.12.2021 for "No Load" charging on 23.11.2021. Moreover, the notice of intimation dated 19.7.2021 and 30.9.2021 for charging of the transmission asset was served upon UPPTCL.

22. The Petitioner has submitted that after proposing the COD of the transmission asset on 25.11.2021, the 400 kV Varanasi-Jaunpur Circuit-I and II were charged and synchronized on 18.11.2022. Further, even after the execution of the associated line, i.e., the 400 kV Varanasi-Jaunpur transmission line under the scope of UPPTCL, there was no power flow through 400 kV bays due to the non-execution of the downstream network at Jaunpur Sub-station under the scope of work of UPPTCL. The Petitioner has prayed to approve the COD of the transmission asset as 25.11.2021 under Regulation 5(2) of the 2019 Tariff Regulations.

23. UPPTCL, in its reply, has made the following submissions:

(a) The Petitioner has claimed the COD of the transmission asset as 25.11.2021 with a delay of 298 days. The transmission asset of the Petitioner was ready on 25.11.2021. However, the same could not be put into use due to the non-execution of the downstream network at Jaunpur Sub-station within the scope of work of UPPTCL.

(b) The Petitioner has claimed the COD of its transmission asset as 25.11.2021. However, from the perusal of the NRLDC certificate, it is clear that the charging and trial run of the transmission asset was approved only on 18.11.2022. The application for the same was filed by the Petitioner only on 11.11.2022. No explanation has been given by the Petitioner for this inordinate delay. Moreover, the Petitioner had claimed COD of the transmission asset as 25.11.2021 when the transmission asset of the Petitioner was charged on 18.11.2022. The fact that there was a delay in the execution of the downstream asset on behalf of UPPTCL in no way precluded the Petitioner from approaching the Commission to seek approval and declaration of the COD.

(c) The Petitioner gave no justification as to why a petition seeking the approval of COD was not filed at the time when the COD was claimed, i.e., around 25.11.2021. The inaction on the part of the Petitioner in not filing the petition at the appropriate time raises suspicion as to whether the transmission line of the Petitioner itself was actually ready or not.

24. In response, the Petitioner has made the following submissions:

(a) The Petitioner has been entrusted with the implementation of the transmission asset, i.e., two 400 kV GIS Line Bays at 765/400/220 kV Varanasi Sub-station. The scope of the scheme was discussed and agreed upon in the 4th Meeting of the Northern Region Standing Committee on Transmission (NRSCT) held on 25.7.2019 / the 5th meeting of the National Committee on Transmission (NCT) held on 21.8.2019 and the 46th NRPC meeting held on 24.9.2019. In the 4th Meeting of NRSCT held on 25.7.2019, UPPTCL clarified that the instant bays would be required by January 2021.

(b) In the 46th Northern Regional Power Committee (NRPC) meeting held on 24.9.2019, Central Transmission Utility of India Limited (CTUIL) informed that two numbers 400 kV bays (GIS) at 765/400 kV Varanasi (PGCIL) Sub-station for Jaunpur-Varanasi (PGCIL) 400 kV D/C line were discussed and agreed upon in the 4th meeting of NRSCT held on 25.7.2019 and completion schedule was January, 2021. However, looking into the timeframe, the Petitioner explored the feasible option of providing hybrid bays, as discussed in the 5th NRSCT meeting held on 13.9.2019. Accordingly, it was proposed to implement the two numbers of 400 kV bays at Varanasi (PG) with GIS/hybrid option under ISTS with the compressed time schedule, i.e., by January 2021 (as requested by UPPTCL). Accordingly, the IA of the project was accorded by the Competent Authority on 29.3.2020.

(c) UPPTCL vide letter dated 24.8.2020 requested that the construction of the two numbers 400 kV bays at Varanasi be expedited and stated that 85% of the construction work of the 400 kV D/C Jaunpur (UPPTCL)-Varanasi (PG) transmission line of UPPTCL and the Jaunpur Sub-station had been completed. The Petitioner intimated the readiness and charging of the bays. Notice was also sent to UPPTCL prior to execution of the transmission line vide letters dated 17.6.2021, 19.7.2021 and 30.9.2021.

(d) The approval for energization under Regulation 43 of the Central Electricity Authority (Measures Relating to Safety and Electric Supply), Regulations, 2010 was accorded by the CEA vide letter dated 26.10.2021. RLDC vide letter dated 2.12.2021 certified that the transmission asset (Varanasi Bays-416 and 419) was charged on a no-load basis from 23.11.2021. Further, it has been submitted that 400 kV Varanasi-Jaunpur Circuit-I and II, along with 400 kV Varanasi Bays (Main Bays nos: 416 and 419), have been charged on 18.11.2022. Further, even after the execution of associated transmission lines, i.e., 400 kV Varanasi-Jaunpur transmission line Circuit-I and Circuit-II, the power flow could not be done as the downstream system was not ready at the Jaunpur Sub-station, which was under the scope of UPPTCL.

(e) Due to non-availability of associated downstream network, i.e., the 400 kV D/C Jaunpur (UPPTCL)-Varanasi (PG) transmission line of UPPTCL and the Jaunpur Sub-station and upon the readiness of the transmission asset certified by CEA and RLDC, the petition was filed before the Commission for approval of the COD as per Regulation 5(2) of the 2019 Tariff Regulations. Further, the downstream system was synchronized on 11.2.2023, after the readiness of the 400 kV D/C Jaunpur (UPPTCL)-Varanasi (PG) transmission line of UPPTCL and the Jaunpur Sub-station.

25. UPPTCL, with regard to the events pertaining to the execution of the downstream system within its scope, has made the following submissions:

(a) On 5.5.2016, the Transmission Working Committee (TWC) of UPPTCL approved the 400 kV Sub-station and line which were proposed to be constructed in Tahsil Shahganj, District-Jaunpur, Uttar Pradesh. Thereafter, UPPTCL received approval from the Energy Task Force (ETF) on 27.6.2016 and subsequently got Cabinet approval on 19.9.2016. Accordingly, the Letter of Intent (LoI) was issued to the UPPTCL on 25.10.2016.

(b) However, earlier, due to disputes and litigation filed by the land owners, the construction of the 400 kV Sub-station was obstructed for a considerable period of time, due to which UPPTCL shifted the construction of the sub-station from Tahsil-Shahganj, District-Jaunpur to Macchalishahar, Jaunpur where the land was finalized and handed over to UPPTCL on 28.1.2019. Due to the aforesaid reasons, UPPTCL had to initiate a fresh start of the construction of the line from 31.1.2019. Further, as per the norms of UPPTCL, the execution was to be done within 18 months from the fresh start date.

(c) Request for NOCs from the Petitioner for crossing the lines was made on 18.4.2019 at 400 kV Varanasi (PG)-Sarnath line on 18.4.2019 at 400 kV Sasaram-Allahabad line, on 12.6.2019 at 765 kV Varanasi (PG)-Fatehpur line and on 1.6.2019 at 765 kV Varanasi (PG)-Kanpur line.

(d) Thereafter, on 18.6.2019, UPPTCL submitted the request seeking NOC from the NHAI Department for crossing the Jaunpur-Raibareily National Highway (NH-231) near the village Machchlishar. Due to a change in the location of the sub-station, the TWC approved the revised project on 22.7.2019.

(e) UPPTCL had to take fresh NOCs from the different departments. The details of the same are as follows:

Date	NOC
24.6.2019 29.12.2020 23.6.2021	Approval of the Petitioner for line crossing at 400 kV Varanasi (PG)-Sarnath line and 400 kV Sasaram-Allahabad line, Approval of the Petitioner for line crossing at 765 kV Varanasi (PG)-Kanpur line, Approval of the Petitioner for line crossing at 765 kV Varanasi (PG)-Fatehpur line. The Petitioner had taken a total of 797 days in granting the NOC to the UPPTCL for crossing aforesaid lines.
5.6.2020	On 18.6.2019 UPPTCL submitted a proposal for crossing the Jaunpur-Raibareily National Highway (NH-231) between milestones near the village Machchlishar and sought NOC from the NHAI for the same. However, NHAI took 12 months' time in granting NOC to the UPPTCL as the same was granted on 5.6.2020. An approval dated 5.6.2020 granted by NHAI is submitted.
23.12.2021	On 3.6.2019, the UPPTCL applied for NOC from the Division Railway Manager, Northern Railway, for the over-head crossing of a conductor for crossing railway track which was approved on 23.12.2021. The Division Railway Manager, Northern Railway delayed 30 months in granting the NOC for crossing the railway lines. A copy of the NOC application dated 3.6.2019 and a grant of NOC dated 23.12.2021 were submitted.
5.2.2022 6.2.2022 2.5.2022 3.5.2022 12.5.2022 4.3.2022 5.3.2022	Shut down provided by the Petitioner for power line crossing of UPPTCL.
15.3.2022 and 22.3.2022	Block provided by the Railway on the request of UPPTCL.
18.11.2022	Date of Energisation of 400/220/132/33 kV Jaunpur- Varanasi (PG) line I. A copy of the list of elements added in Transmission Zones during November 2022 was submitted.
30.1.2023	Date of Energisation of 400/220/132/33 kV Jaunpur- Varanasi (PG) line II. A copy of the list of elements added in Transmission Zones during January 2023 was submitted.

(f) The downstream line under the scope of the UPPTCL was delayed due to reasons beyond the control of the UPPTCL, and the Petitioner itself delayed 797 days in granting the NOCs to the UPPTCL for crossing the lines mentioned in the abovementioned table.

(g) The Petitioner, at the relevant time, was CTUIL in terms of Section 38(2) of the Electricity Act, 2003, and was entrusted with certain responsibilities by the Act.

(h) The Petitioner itself has failed to discharge its statutory duties as mandated in the Electricity Act, 2003. Further, it is settled law that no party can benefit from its own wrong. Though the Petitioner failed to perform its duty., however, due to the aforesaid reasons, UPPTCL vide NRPC Meeting dated 27.6.2022 duly informed that the 400/220 kV Sub-station at Machhalishahar (Jaunpur) under the scope of the UPPTCL was getting delayed and was, therefore, expected to be completed by August, 2022.

26. In response, the Petitioner has made the following submissions:

(a) Based on the requirement and timeline of UPPTCL, the system was planned in the 4th Meeting of NRSCT held on 25.7.2019. UPPTCL clarified that instant bays would be required by January 2021 and implemented accordingly.

(b) The 400 kV D/C Jaunpur (UPPTCL)-Varanasi Transmission line is an intra-State transmission line, and the Commission is not the appropriate forum for the determination of tariff and analysis of time over-run in the instant petition. Further, UPPTCL has not clarified that the transmission asset, the 400 kV D/C Jaunpur (UPPTCL)-Varanasi Transmission Line along with the Jaunpur Sub-station has been claimed for the determination of Annual Revenue Requirement (ARR) for the 2023-24 before the Uttar Pradesh Electricity Regulatory Commission (UPERC).

27. With regard to the delay in granting the NOCs to UPPTCL for crossing the power lines, the Petitioner, in its rejoinder, has submitted that there was no delay on its part in granting NOCs to UPPTCL in crossing the power lines and that UPPTCL is misleading the Commission and the same is evident from the following:

(a) Crossing at 400 kV Varanasi (PG)-Sarnath Transmission line:

Sl. No.	Particulars	Date	Remarks
1	Letter from UPPTCL to the Petitioner	18.4.2019	For intimation of power line crossing for the construction of the said line.
2	Letter from the Petitioner to UPPTCL	24.6.2019	For Submission of information on crossing the line.
3	Letter from UPPTCL to the Petitioner	1.12.2019	Requisite Information submitted by UPPTCL
4	Letter from UPPTCL to the Petitioner	28.9.2020	Submission of Map
5	Joint inspection is done with UPPTCL and the Petitioner	3.11.2020	By both the parties, MOM signed
6	Letter from UPPTCL, EE to the Petitioner	1.12.2020	Submission of the detailed route map
7	Undertaking by UPPTCL	24.12.2020	Submitted to PGCIL
8	Letter from the Petitioner to UPPTCL	29.12.2020	NOC given to UPPTCL

(b) Crossing at 400 kV Sasaram Allahabad Transmission line:

Sl. No.	Particulars	Date	Remarks
1	Letter from UPPTCL to the Petitioner	18.4.2019	For intimation of power line crossing for the construction of the said line.
2	Letter from the Petitioner to UPPTCL	24.6.2019	NOC given to UPPTCL

(c) Crossing at 765 kV Varanasi (PG)-Kanpur Transmission line:

Sl. No.	Particulars	Date	Remark
1	Letter from UPPTCL to the Petitioner	1.6.2019	For intimation of power line crossing for the construction of line.
2	Letter from UPPTCL to the Petitioner	9.12.2019	Data submitted for Crossing the line
3	Letter from the Petitioner to UPPTCL	8.1.2020	For Joint Inspection of the Locations.
4	Letter from UPPTCL to the Petitioner	6.2.2021	Proposal resubmitted by UPPTCL
5	Joint inspection is done with UPPTCL and the Petitioner	8.2.2021	By both the parties, MOM signed
6	Letter from the Petitioner to UPPTCL	22.2.2021	NOC given to UPPTCL

(d) Crossing at 765 kV Varanasi (PG) - Fatehpur line Transmission line:

Sl. No.	Particulars	Date	Remark
1	Letter from UPPTCL to the Petitioner	12.6.2019	For intimation of power line crossing for the construction of line.

2	Letter from the Petitioner to UPPTCL	17.10.2019	Further clarification on the submitted data.
3	Reminder through E-mail to UPPTCL.	28.11.2019	Reminder for submission of data to the Petitioner.
4	Letter from UPPTCL to PGCIL	9.10.2020	Supporting documents submitted by UPPTCL.
5	Letter from the Petitioner to UPPTCL	21.11.2020	For submission of relevant documents by UPPTCL
6	Joint inspection done with UPPTCL and the Petitioner	7.4.2021	Both parties signed the MOM
7	Letter from UPPTCL to the Petitioner	9.4.2021	Submission of clarification.
8	Letter from the Petitioner to UPPTCL	18.5.2021	For submission of revised proposal documents.
9	Letter from UPPTCL to the Petitioner	4.6.2021	Submission of Clarification by UPPTCL
10	Letter from PGCIL to UPPTCL	23.6.2021	NOC given to UPPTCL

28. We have considered the submissions of the Petitioner and UPPTCL. As per Regulation 5(2) of the 2019 Tariff Regulations, the COD of a transmission system or an element thereof can be approved if the said system has been prevented from being put into a regular service for reasons not attributable to the transmission licensee. Further, as per Regulation 5(2) of the 2019 Tariff Regulations, the Petitioner is required to give prior notice of at least one month to the transmission licensee who has delayed the upstream/downstream system regarding the date of commercial operation.

29. The Petitioner has claimed the COD of the transmission asset as 25.11.2021 under Regulation 5(2) of the 2019 Tariff Regulations as the associated transmission line, i.e., the 400 kV Varanasi-Jaunpur Circuit-I and II, under the scope of UPPTCL was not ready and the Petitioner was prevented from putting the transmission asset into commercial operation. The Petitioner has further contended that even after execution of the said associated line, there was no power flow through the transmission asset due to the non-execution of the downstream network at the Jaunpur Sub-station under the scope of work of UPPTCL. The Petitioner has also contended that UPPTCL, vide letter dated 24.8.2020, requested to expedite the construction of the transmission asset, i.e.,

the two bays at Varanasi, and stated that 85% of the construction work of its associated transmission line of UPPTCL and Jaunpur Sub-station had been completed. Therefore, the Petitioner has completed the transmission asset by 25.11.2021 and has claimed its COD under Regulation 5(2) of the 2019 Tariff Regulations. *Per contra*, UPPTCL has contended that its transmission line was delayed due to RoW issues and due to reasons beyond the control of UPPTCL. UPPTCL has further contended that there is considerable delay in the filing of the petition by the Petitioner. We are of the view that the reasons for the time over-run of the associated transmission line of UPPTCL cannot be dealt with by us in a petition filed by the Petitioner for approval of COD and tariff of its transmission asset. Therefore, we are not considering the reasons given by UPPTCL for the delay of its transmission line in the instant order. As regards the UPPTCL's other contention that there is considerable delay in the filing of the petition by the Petitioner, we find merit in it. The transmission asset of the Petitioner was ready on 25.11.2021. However, the Petitioner filed the petition on 25.1.2023 after a delay of 14 months. We are of the view that the Petitioner should have filed the petition when the transmission asset was ready, especially when the Tariff Regulations provide for the filing of the petition even before the COD of a transmission asset. Further, the Petitioner has not given any reason for the delay in filing the petition. Therefore, we do not allow any interest on the tariff approved for the transmission asset from the approved COD to the date of filing of the application, i.e., on 25.1.2023.

30. It is observed that the Petitioner, vide letters dated 19.7.2021 and 30.9.2021, issued prior notice to UPPTCL as required under Regulation 5(2) of the 2019 Tariff Regulations and informed that the transmission asset would be ready for charging.

31. Taking into consideration the submissions of UPPTCL and the Petitioner, the CEA Energization Certificate, NRLDC's No Load charging letter, CMD Certificate, and letters dated 19.7.2021 and 30.9.2021, the COD of the transmission asset is approved as 25.11.2021 in terms of Regulation 5(2) of the 2019 Tariff Regulations.

Capital Cost

32. 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 trued 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."

33. The Petitioner, vide Auditor's Certificate dated 20.9.2022, has claimed the capital cost incurred as on COD and Additional Capital Expenditure (ACE) projected to be incurred in respect of the transmission asset and the same are as follows:

(₹ in lakh)

FR apportioned approved cost	**Expenditure up to COD**	**Projected ACE**			**Estimated completion cost**
		2021-22	**2022-23**	**2023-24**	
4763.00	2947.58	161.35	297.66	297.66	3704.25

34. UPPTCL submitted that the Petitioner had sought the determination of tariff from the claimed COD, i.e., 25.11.2021, when the transmission asset was not in use due to non-completion of the downstream system. Regulation 19(5)(a) of the 2019 Tariff Regulations provides that the transmission asset forming part of the transmission project but not in use shall be excluded from the capital cost.

35. UPPTCL has also submitted that the Petitioner has averred that the transmission asset could not be put into use due to non-execution of the downstream system. From the averments of the Petitioner, it is clear that from the claimed COD, i.e., 25.11.2021, there was no power flow, and therefore, the transmission asset could not be put to use. UPPTCL has submitted that as per Regulation 19(5) of the 2019 Tariff Regulations, the transmission asset is required to be excluded from the capital cost.

36. In response, the Petitioner, vide affidavit dated 20.11.2023, has submitted that the 400 kV D/C Jaunpur (UPPTCL)-Varanasi Transmission line is the intra-State transmission line and the Commission is not the appropriate forum for the determination of tariff and analysis of time over-run in the instant petition. The Petitioner has further submitted that UPPTCL has not clarified whether the 400 kV D/C Jaunpur (UPPTCL)-Varanasi Transmission line along with Jaunpur Sub-station has been claimed for the

determination of the Annual Revenue Requirement (ARR) for the 2023-24 before the UPERC.

37. We have considered the submissions of the Petitioner and UPPTCL. As discussed above in this order, we have already approved the COD of the transmission asset of the Petitioner under Regulation 5(2) of the 2019 Tariff Regulations after taking into consideration all provisions mentioned therein. In view of the provisions contained under Regulation 5 of the 2019 Tariff Regulations, the contentions raised by UPPTCL have no merits. Accordingly, the same are rejected as not tenable.

Cost Over-run

38. The Petitioner has submitted that the total FR approved cost is ₹4763 lakh, against the estimated completion cost of ₹3704.25 lakh. Thus, there is no cost over-run in the case of the transmission asset.

Time Over-run

39. As per the IA dated 31.3.2020, the scheduled COD for the transmission asset is within 10 months. Accordingly, the scheduled COD of the transmission asset is 31.1.2021. The transmission asset was charged on a "No Load" basis on 23.11.2021 and the claimed COD is 25.11.2021 under Regulation 5(2) of the 2019 Tariff Regulations. Hence, there is a time over-run of 298 days in the case of the transmission asset. In this regard, the Petitioner has submitted the following justification in respect of the transmission asset for time over-run:

(i) The time over-run is mainly due to the Covid-19 pandemic. The details of hurdles faced from 30.1.2021 to 25.11.2021 due to the Covid-19 pandemic are as follows:

(a) Covid-19 affected the projects undertaken by the Petitioner. The Petitioner's projects faced a multitude of challenges and supply lines experienced highly unique and mounting risks leading to delay in execution. There was a nationwide lockdown in the country in various phases owing to the Covid-19 pandemic, and the same is as follows:

· Phase 1: 25.3.2020 to 14.4.2020 (21 days)

· Phase 2: 15.4.2020 to 3.5.2020 (19 days)

· Phase 3: 4.5.2020 to 17.5.2020 (14 days)

· Phase 4: 18.5.2020 to 31.5.2020 (14 days)

Unlock:

· Unlock 1.0: 1.6.2020 to 30.6.2020 (30 days)

· Unlock 2.0: 1.7.2020 to 31.7.2020 (31 days)

· Unlock 2.0: 1.8.2020 to 31.8.2020 (31 days)

(b) The Central Government and the State Government had locked down all the cities and restricted the movement from one place to another. The restricted movement affected the critical supply chain, transportation, worker/labour absenteeism due to illness/quarantine/migration, etc., leading to the halting of ongoing projects. The project sites were either closed or access was largely restricted to contain the Covid-19 pandemic. The contractors were not able to carry out the work as a result.

(c) Supply chain disruptions, worker absenteeism due to illness, delayed issuance of permits, travel restrictions, and less time or inefficiencies due to the need to practice social distancing on the job site affected project implementation. Thus, the execution of various projects, including the subject project, faced delay due to the squeezing of supply lines and construction activities.

(d) As a result, the work was disrupted for almost 4 to 5 months (i.e., from the end of March 2020 to July 2020) and gradually gathered momentum in line with the Government directives.

(e) Even after the lockdown period, it was difficult to continue the work as most of the labourers went to their hometowns, and construction work stopped. Recognizing the sensitivity of projects and understanding the gravity of the outbreak of Covid-19, the Ministry of Power granted an extension of five months in SCOD for the projects scheduled to be put into commercial operation after March 2020 vide its letter dated 27.7.2020. In view of the above, the SCOD of the instant project has been revised to 21.5.2021.

(f) The above-mentioned *force majeure* issue led to disruption in the global supply chain and project execution due to the outbreak of the Covid-19 pandemic and the imposition of consequential lockdown in India.

(ii) In April 2021, the same situation arose, and similar measures were taken by the State/UT Governments to curb the pandemic, which disrupted the supply chain and manpower. Again, the Ministry of Power, Government of India, vide circular No. 3/1/2020-Trans dated 12.6.2021, stated that all inter-State projects that are under construction with SCOD coming after 1.4.2021 shall get an extension of three months in respect of the SCOD due to various measures taken by State/UT Governments to contain pandemic such as night curfew, imposition of Section 144 Cr. P. C., weekend lockdown and complete lockdown to contain spread of Covid-19 pandemic second wave. In view of the above, the SCOD of the transmission project has been again revised to 21.8.2021.

(iii) Second wave of Covid-19 in the month of April 2021 was deadlier in nature, which resulted in a limited workforce and resources. Due to the Covid-19 pandemic and lockdown, limited workforce, and scarcity of labourers and resources, the Petitioner could not continue working at full capacity even after the lockdown period/revised SCOD as per the Ministry of Power`s letters dated 27.7.2020 and 12.6.2021. The erection of GIS equipment was completed by the mid-October 2021. Subsequently, pre-commissioning tests were carried out by 15.11.2021. Upon CEA energization approval and charging clearance, the asset was charged on 23.11.2021.

(iv) Though the IA was approved on 31.3.2020, during the rise of Covid-19, the completion schedule in the IA has been considered as 10 months despite prevailing Covid-19 pandemic situations because of the requirement of the transmission asset/bays by January 2021 in matching time frame of the 400 kV Jaunpur (UP)-Varanasi (PG) transmission line in the scope of UPPTCL.

(v) At the time of IA, i.e., in March 2020, there was no clarity about the future of the pandemic. Therefore, the Petitioner made a positive effort to keep the completion schedule to the minimum extent possible of 10 months because of the requirement of transmission asset/bays by January 2021 in the matching time frame of the 400 kV Jaunpur (UP)-Varanasi (PG) transmission line in the scope of UPPTCL.

(vi) The contract for the transmission project was immediately awarded on 25.6.2020 during Covid-19, which affected the businesses globally. The onset of the pandemic and its further extension impacted the project execution philosophy in terms of labour shortages, unplanned lockdowns, restrictions in movement, etc.

(vii) Despite continuous efforts by the Petitioner, the transmission asset has been put into commercial operation with a delay of about 298 days The main reasons for the delay are the worldwide Covid-19 pandemic (including the second wave of Covid-19) that affected the supply chain and severely impacted the progress of the work.

(viii) In view of the above unforeseen delay and considering the MoP letters dated 27.7.2020 and 12.6.2021, the delay in completion of the transmission asset being under Regulation 22(2)(c) of the 2019 Tariff Regulations may be condoned as uncontrollable factors.

40. The Petitioner vide affidavit dated 20.9.2023 has submitted the Form-12 (details of time over-run) in respect of the transmission asset and the same is as follows:

Activity	As per planned		As per Actual		Time over-run (in days)	Reason
	Start	Finish	Start	Finish		
NOA	25.5.2020	25.5.2020	26.8.2020	26.8.2020	93	Covid-19
Supplies	15.6.2020	15.9.2020	7.4.2021	24.8.2021	343	
Foundation	15.6.2020	15.10.2020	27.1.2021	28.4.2021	195	
Erection	1.10.2020	31.12.2020	27.2.2021	16.5.2021	136	
Testing and Commissioning	1.1.2021	30.1.2021	13.6.2021	24.11.2021	298	

41. The Petitioner, vide affidavit dated 20.11.2023, with regard to the status of project, made the following submissions:

As on 25.3.2020	As per the request of UPPTCL, the bays at Varanasi were required by January 2021. Accordingly, IA was accorded on 29.3.2020 with a a scheduled time of commissioning of 10 months, i.e. by January 2021. The notification of Award (NOA) was placed on 25.6.2020 and a detailed Letter of Award (LOA) was signed on 10.8.2020.
As on 1.4.2021	1. Supply: The supply of other equipment was almost completed except for GIS equipment, and the supply of the same was started in June, 2021. 2. Civil Works: Approximately 80% of the work was completed (Civil work for Tower Foundation, PR Building, GIS platforms, GIB foundation, GAB, LA, CVT, WT, and LCC was completed) 3. Erection: Approximate 20% of erection work was completed (50% of Tower & Equipment structure were erected. Further, the erection of CRP, SAP panel was completed) 4. Testing and Commissioning: Not yet started.

42. With regard to the non-availability of GIS equipment, the Petitioner relied upon the ‘Break the Chain’ order issued by the Government of Maharashtra dated 13.4.2021, due to which operations at Hyosung Pune works were affected, leading to further delay

in manufacturing, final assembly, and dispatch of GIS equipment for the transmission project. The Petitioner has submitted a copy of the Maharashtra Government order dated 13.4.2021 and the order of District Magistrate Nasik dated 10.5.2021 as supporting documents, along with an affidavit dated 20.11.2023.

43. The Petitioner has submitted that most of the factories were either closed or partially operational with restricted manpower strength following the Covid-19 protocols issued by the Maharashtra Government. Further, the severe impact of Covid-19 on supplies for the project due to increased cases in Pune, Mumbai, Nashik, and Aurangabad and partial/complete lockdown by the Maharashtra Government affected manufacturing in Hyosung Pune factory itself and most of their suppliers from Nashik. Thus, supplies and site activities were badly affected from March 2021 to June 2021 due to the second wave of the pandemic. Further, the workers at the Varanasi site were demobilized in May 2021 due to Covid-19 and resumed work in July 2021 in limited numbers. The supply of GIS equipment was completed in July 2021.

44. UPPTCL has submitted that the Petitioner has sought condonation of delay of 298 days mainly on the grounds of Covid-19. UPPTCL has submitted that the Petitioner has deliberately concealed the Notifications of the MoP dated 27.7.2020 and 12.6.2021, whereby the Petitioner was allowed the extension of a total of 8 months during the period of the pandemic. UPPTCL has submitted that when the MoP had already provided the extension of eight months on account of the Covid-19 pandemic for the transmission asset of the Petitioner, and as such, any delay beyond that period cannot be accepted. According to UPPTCL, the maxim of *"suppressio veri suggestio falsi"* is squarely applicable in the present case. It is a trite law that a party that comes to court

with unclean hands should not be granted any relief. Therefore, the petition is liable to be rejected on this ground alone.

45. We have considered the submission of the Petitioner and have gone through the documentary evidence produced on record to justify the time over-run. The Petitioner has submitted the date of IA as 31.3.2020 and the SCOD of the transmission asset as 31.1.2021. As discussed above in this order, we have considered the IA date as 29.3.2020 and the scheduled COD of the transmission asset as 29.1.2021. The Petitioner initially sought approval of the COD as 23.11.2021 and has prayed to approve the COD of the transmission asset in terms of Regulation 5(2) of the 2019 Tariff Regulations as 25.11.2021 due to no load charging on 23.11.2021. However, we have approved the COD of the transmission asset as 25.11.2021. Therefore, the over-run is actually 300 days.

46. The Petitioner has submitted that the main reason for the time over-run in the case of the transmission asset was the outbreak of the Covid-19 pandemic and subsequent lockdowns and restrictions imposed in the wake of the outbreak of the Covid-19 pandemic. The Petitioner has submitted that the Covid-19 pandemic-related challenges, which included supplier delivery issues, workers' absenteeism due to illness, delayed issuance of permits, travel restrictions, and loss of time or inefficiencies due to the need to practice social distancing on the job site, affected the implementation of the transmission asset. The contractor was not able to carry out the works in view of the restrictions placed by the Governments to prevent the spread of the outbreak. Further, the Petitioner has submitted that lack of engineering and technical support and supply chain disruptions were the major reasons for the time over-run.

47. The claim of Petitioner is based on the MoP circulars dated 27.7.2020 and 12.6.2021. However, the circular provides an extension to those projects which were under construction on 25.3.2020 and whose SCOD is beyond 25.3.2020. However, in the instant petition, IA was granted on 29.3.2020, with the actual award on 26.8.2020. The relevant extract of the MoP circular dated 27.7.2020 is as follows:

> *"Sub: Extension to TSP/Transmission Licensees for completion of under construction inter-State transmission projects*
>
> *Sir,*
>
> *I am directed to state that transmission utilities have pointed out that construction activities at various transmission project sites have been severely affected by the nationwide lockdown measures announced since 25th march, 2020 to contain outbreak of COVID-19 and have requested for extension of Scheduled Commercial Operation (SCOD) to mitigate the issues of disruption in supply chains and manpower, caused due to outbreak of COVID-19 pandemic.*
>
> *2. It has been, therefore, decided that;*
>
> *i. All inter-state transmission projects, which were under construction as on date of lock-down i.e. 25th March 2020, shall get an extension of five months in respect of SCOD*
>
> *ii. This order shall not apply to those projects, whose SCOD date was prior to 25th March 2020*
>
> *iii. Start date of Long Term Access granted to a generator by CTU based on completion of a transmission line, whose SCOD is extended by 5 months due to COVID-19 as mentioned above at point(i), shall also be extended by 5 months."*

48. The relevant extract of the letter dated 12.6.2021 of the MoP, which provides for the extension of three months in respect of the SCOD for inter-State transmission projects, is as follows:

> "*Sub: Extension to TSP/Transmission Licensees for completion of under construction inter-State transmission projects – reg.*
>
> *Sir,*
>
> *I am directed to state that transmission utilities have approached this Ministry stating that construction activity at various transmission projects sites have been severely affected by the current second wave of COVID-19 pandemic and various measures taken by State/UT Governments to contain the pandemic; such as night curfew, imposition of section 144, weekend lockdown and complete lockdown. In this regard they have requested for extension of Scheduled Commercial Operation Date (SCOD) for the undergoing Transmission projects to mitigate the issues of disruption in supply chains and manpower, caused due to COVID-19 pandemic.*
>
> *2. The matter has been examined in the Ministry and it has been noted that unlike last year complete lock-down in the entire country, this time different States/UTs have*

ordered lock-down in their State/UTs as per their own assessments. Therefore, after due consideration, it has been decided that; i. All inter-state transmission projects, which are under construction with SCOD coming after 01 April 2021 shall get an extension of three (3) months in respect of their SCOD; ii. The commencement date of Long Term Access (LTA) to a generator by CTU based on completion of a transmission line, whose SCOD is extended by three (3) months due to COVID-19 as mentioned above at point(i), shall also be extended by three (3) months.

3. This issue with the approval of Competent Authority."

49. In terms of the above letters dated 27.7.2020 and 12.6.2021, the COD of the transmission asset was to be extended by five months in the case of the transmission projects that were under construction as on 25.3.2020 and by three months in the case of the transmission projects which were under construction with SCOD after 1.4.2021, respectively. As per the IA dated 29.3.2020, the SCOD of the transmission project is 29.1.2021. Thus, the transmission project was neither under construction on 25.3.2020 nor was the SCOD of the transmission asset after 1.4.2021. Therefore, the relief granted under the MoP letters dated 27.7.2020 and 12.6.2021 is not applicable in the present case. The Petitioner, knowing about the prevailing Covid-19 situation agreed for the IA and accorded the same during the lockdown. In view of this, the entire time over-run pertaining to the nationwide lockdown due to Covid-19 (300 days) is not condoned.

50. The summary of the time over-run condoned/not condoned is as follows:

Schedule COD as per IA	Actual COD	Time over-run	Time over-run condoned	Time over- run not condoned
29.1.2021	25.11.2021	300 days	0 days	300 days

<u>Interest During Construction (IDC) and Incidental Expenditure During Construction (IEDC)</u>

51. The Petitioner has claimed IDC for the transmission asset and has submitted the statement showing IDC claim, discharge of IDC liability as on the date of commercial operation and thereafter as follows:

(₹ in lakh)

IDC as per Auditor's Certificate	IDC Discharged up to COD	IDC discharged during 2021-22
15.70	14.49	1.21

52. As discussed above in this order, we have disallowed the time over-run in the execution of the transmission asset. Accordingly, IDC on a cash basis up to the COD, has been worked out based on the loan details given in the statement showing the discharge of IDC and Form-9C for the transmission asset. The IDC claimed and considered as on COD and summary of discharge of IDC liability up to the COD and thereafter for the purpose of tariff determination subject to its revision at the time of truing up is as follows:

(₹ in lakh)

IDC as per Auditor's Certificate (A)	IDC disallowed (B)	IDC Allowed (C)=(A)-(B)	Undischarged IDC (D)	IDC allowed on COD (E)=(C)-(D)
15.70	15.70	0.00	0.00	0.00

53. The Petitioner has claimed IEDC for the transmission asset as per the Auditor's Certificate. The Petitioner has submitted that the entire IEDC mentioned in the Auditor's Certificate is on a cash basis and was paid up to the date of commercial operation. As the time over-run for the transmission asset has not been condoned, there is a dis-allowance of IEDC on a proportionate basis. The IEDC claimed as per the Auditor's Certificate, IEDC considered, disallowed, and discharged up to the COD is as follows:

(₹ in lakh)

IEDC claimed as per Auditor's certificate (A)	IEDC disallowed due to time over-run not condoned (B)	IEDC Allowed (A-B)
262.71	130.05	132.66

Initial Spares

54. Regulation 23(d) of the 2019 Tariff Regulations provides that Initial Spares shall be capitalised as a percentage of plant and machinery cost up to the cut-off date, subject to the following ceiling norms:

> *"(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%"*

55. The Initial Spares claimed by the Petitioner are as follows:

(₹ in lakh)

Particulars	Capital cost for calculation of Initial Spares	Initial Spares claimed	Ceiling as per Regulation (in %)
Sub-station (GIS)	3425.84	165.06	7.00

56. The Petitioner has submitted that the Initial Spares discharge statement has already been submitted in paragraph 7.2 of the petition.

57. The Petitioner has submitted that as per norms, the Petitioner is eligible for Initial Spares of ₹233.01 lakh, and the Initial Spares claimed by the Petitioner are ₹165.06 lakh, which is within the norm. Hence, the entire Initial Spares of ₹165.06 lakh may be allowed.

58. We have considered the Petitioner's submissions. The Initial Spares for the transmission asset are allowed as per the respective percentage of the Plant and Machinery Cost as on the cut-off date on an individual basis. The Petitioner has claimed

₹165.06 lakh of Initial Spares for the transmission asset against the norm of ₹233.01 lakh. Thus, the Initial Spares claimed are within the norm.

59. Therefore, the Initial Spares for the transmission asset have been allowed as claimed by the Petitioner as follows:

(₹ in lakh)

Particulars	Plant and Machinery cost (excluding IDC and IEDC, Land cost and Cost of Civil Works) (₹ in lakh)	Initial Spares claimed (₹ in lakh)	Norms as per 2019 Tariff Regulations (in %)	Initial Spares allowable (₹ in lakh)	Initial Spares disallowed (₹ in lakh)	Initial Spares allowed (₹ in lakh)
	A	B	C	D=(A-B)*C/(100-C)	E=B-D	
Sub-station	3260.77	165.06	7.00%	233.01	NIL	165.06

60. The Petitioner has submitted that Initial Spares up to COD as per the Form 13 of the petition is ₹44.03 lakh. Further, ₹121.03 lakh is shown as ACE for three years. The capital cost allowed for the transmission asset as on COD is as follows:

(₹ in lakh)

Capital Cost claimed as on COD (Auditor Certificate) (A)	IDC Disallowed (B)	Undischarged IDC as on COD (C)	IEDC Disallowed (D)	Capital Cost as on COD (E) = (A-B-C-D)
2947.58	15.70	0.00	130.05	2801.83

Additional Capital Expenditure (ACE)

61. 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 23of 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 additional capital expenditure 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;
(g) Raising of ash dyke as a part of ash disposal system."

62. The Petitioner has claimed that since the ACE incurred/projected to be incurred is mainly on account of the balance/retention payments and works deferred for execution, the same is claimed in accordance with Regulations 24(1)(a) and 24(1)(b) of the 2019 Tariff Regulations. The Petitioner has claimed capital cost as per the cash IDC discharged as on 31.3.2024, and the same is as follows:

(₹ in lakh)

Capital Cost as on COD	Projected ACE 2019-24			Capital Cost as on 31.3.2024
	2021-22	2022-23	2023-24	
2946.37	162.56	297.66	297.66	3704.25

63. The Petitioner has submitted that there is no expenditure expected beyond 2023-24. However, ACE is on an anticipated basis, and the actual ACE will be submitted at

the time of truing-up of the 2019-24 tariff based on the actual expenditure incurred and spillover, if any. The Petitioner, in its Liability Flow Statement, vide affidavit dated 20.9.2023, has furnished the following details:

(₹ in lakh)

Party's Name	Particulars	ACE Discharge			Details of unexecuted work			Total		
		2021-22	2022-23	2023-24	2021-22	2022-23	2023-24	2021-22	2022-23	2023-24
Hyosung T&D Private Limited	Sub-station	0.00	0.00	233.72	155.62	287.09	53.37	155.62	287.09	287.09
Hyosung T&D Private Limited	PLCC	0.00	0.00	4.63	2.51	4.63	0.00	2.51	4.63	4.63
Hyosung T&D Private Limited	IT Equipment	0.00	0.00	5.94	3.22	5.94	0.00	3.22	5.94	5.94
Total ACE		**0.00**	**0.00**	**244.29**	**161.35**	**297.66**	**53.37**	**161.35**	**297.66**	**297.66**

64. We have considered the submissions of the Petitioner. The projected ACE to be incurred is mainly on account of the balance/retention payments and works deferred for execution. Hence, the same is allowed in accordance with Regulations 24(1)(a) and 24(1)(b) of the 2019 Tariff Regulations. The ACE allowed with respect to the transmission asset is as follows:

(₹ in lakh)

Particulars	Regulations	ACE Allowed		
		2021-22	2022-23	2023-24
Undischarged liabilities recognized to be payable at a future date	24(1)(a)	161.35*	297.66*	244.29*
Works deferred for execution	24(1)(b)	0.00	0.00	53.37
Total ACE		**161.35**	**297.66**	**297.66**

**The amount is inclusive of Initial Spares discharged and exclusive of IDC discharge of ₹1.21 lakh*

65. The capital cost considered for the transmission asset for the 2019-24 tariff period is as follows:

(₹ in lakh)

Capital Cost as on COD	Admitted Projected ACE 2019-24			Capital Cost as on 31.3.2024
	2021-22	2022-23	2023-24	
2801.83	161.35	297.66	297.66	3558.50

Debt-Equity ratio

66. Regulation 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."

67. The Debt-Equity considered for the purpose of computation of tariff for the 2019-24 period in respect of the transmission asset is as follows:

(₹ in lakh)

Particulars	**Capital Cost as on COD (₹ in lakh)**	**(in %)**	**ACE during 2019-24 (₹ in lakh)**	**(in %)**	**Capital Cost as on 31.3.2024 (₹ in lakh)**	**(in %)**
Debt	1961.28	70.00	529.67	70.00	2490.95	70.00
Equity	840.55	30.00	227.00	30.00	1067.55	30.00
Total	**2801.83**	**100.00**	**756.67**	**100.00**	**3558.50**	**100.00**

Depreciation

68. 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."

69. The depreciation has been worked out considering the admitted capital expenditure as on COD and thereafter. The Weighted Average Rate of Depreciation (WAROD) at Annexure has been worked out for the transmission asset as per the rates of depreciation prescribed in the 2019 Tariff Regulations. The depreciation allowed for the transmission asset is as follows:

(₹ in lakh)

Particulars	**2021-22 (pro-rata for 127 days)**	**2022-23**	**2023-24**
Depreciation			
Opening Gross Block	2801.83	2963.18	3260.84
ACE	161.35	297.66	297.66
Closing Gross Block	2963.18	3260.84	3558.50
Average Gross Block	2882.50	3112.01	3409.67
Weighted average rate of Depreciation (WAROD) (in %)	5.49	5.49	5.49
Elapsed life at the beginning of the year (Year)	0	0	1
Balance useful life of the asset at the beginning of the year (Year)	24	24	23
Aggregate Depreciable Value	2600.00	2807.01	3075.50
Depreciation during the year	**55.06**	**170.86**	**187.20**
Aggregate Cumulative Depreciation at the end of the year	55.06	225.92	413.12
Remaining Aggregate Depreciable Value at the end of the year	2544.94	2581.09	2662.38

Interest on Loan (IoL)

70. 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.

(5a) 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."

71. The Weighted Average Rate of IoL (WAROI) has been considered on the basis of the rate prevailing at the end of the respective year. The Petitioner has prayed that the change in interest rate due to the floating rate of interest applicable, if any, during the 2019-24 tariff period will be adjusted. Accordingly, the floating rate of interest, if any, shall be considered at the time of truing up. Therefore, the IoL has been allowed in

accordance with Regulation 32 of the 2019 Tariff Regulations, and the same is as follows:

(₹ in lakh)

Particulars	2021-22 (pro-rata for 127 days)	2022-23	2023-24
Gross Normative Loan	1961.28	2074.23	2282.59
Cumulative Repayments up to Previous Year	0.00	55.06	225.92
Net Loan-Opening	1961.28	2019.16	2056.66
Additions	112.95	208.36	208.36
Repayment during the year	55.06	170.86	187.20
Net Loan-Closing	2019.16	2056.66	2077.83
Average Loan	1990.22	2037.91	2067.25
Weighted Average Rate of Interest on Loan (in %)	5.95	5.95	5.95
Interest on Loan	**41.20**	**121.26**	**123.00**

Return on Equity (RoE)

72. Regulations 30 and 31 of the 2019 Tariff Regulations provide 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 cutoff 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%;"

"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:

Rate of pre-tax return on equity = 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:

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 ₹ 1,000 crore;
(b) Estimated Advance Tax for the year on above is ₹ 240 crore;
(c) Effective Tax Rate for the year 2019-20 = ₹ 240 Crore/₹ 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."

73. The Petitioner has submitted that the MAT rate is applicable to it. Accordingly, the MAT rate applicable in 2019-24 for respective financial years has been considered for the purpose of RoE, which shall be trued up with the actual tax rate in accordance with Regulation 31(3) of the 2019 Tariff Regulations. The RoE allowed for the transmission asset has been worked out and allowed as follows:

(₹ in lakh)

Particulars	**2021-22 (pro-rata for 127 days)**	**2022-23**	**2023-24**
Opening Equity (A)	840.55	888.96	978.25
Additions (B)	48.41	89.30	89.30
Closing Equity (C) = (A+B)	888.96	978.25	1067.55
Average Equity (D) = (A+C)/2	864.75	933.60	1022.90
Return on Equity (Base Rate) (in %)	15.500	15.500	15.500
MAT Rate for respective year (in %)	17.472	17.472	17.472
Rate of Return on Equity (in %)	18.782	18.782	18.782
Return on Equity	**56.51**	**175.35**	**192.12**

Operation & Maintenance Expenses (O&M Expenses)

74. The O&M Expenses claimed by the Petitioner for the transmission asset are as follows:

(₹ in lakh)

Particulars	2021-22 (pro-rata for 127 days)	2022-23	2023-24
400 kV GIS Sub-station			
400 kV GIS Sub-station (nos.)	2	2	2
Norms (₹ lakh/bay)	24.115	24.962	25.837
Total O&M expenses	**16.78**	**49.92**	**51.67**

75. The Regulation 35(3)(a) of the 2019 Tariff Regulations provides as follows:

"35. Operation and Maintenance Expenses:

*(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 (₹ 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 (₹ 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 (₹ 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*

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Norms for HVDC stations					
HVDC Back-to-Back stations (₹ lakh per 500 MW) (Except Gazuwaka BTB)	834	864	894	925	958
Gazuwaka HVDC Back-to-Back station (₹ lakh per 500 MW)	1,666	1,725	1,785	1,848	1,913
500 kV Rihand-Dadri HVDC bipole scheme (₹ lakh) (1500 MW)	2,252	2,331	2,413	2,498	2,586
±500 kV Talcher- Kolar HVDC bipole scheme (₹ lakh) (2000 MW)	2,468	2,555	2,645	2,738	2,834
±500 kV Bhiwadi-Balia HVDC bipole scheme (₹ lakh) (2500 MW)	1,696	1,756	1,817	1,881	1,947
±800 kV, Bishwanath-Agra HVDC bipole scheme (₹ 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."

76. The O&M Expenses worked out for various elements of the transmission asset as per the norms specified in the 2019 Tariff Regulations are as follows:

(₹ in lakh)

Particulars	**2021-22 (pro-rata for 127 days)**	**2022-23**	**2023-24**
400 kV GIS Sub-station			
400 kV GIS Sub-station (nos.)	2	2	2
Norms (₹ lakh/bay)	24.115	24.962	25.837
Total O&M expenses	**16.78**	**49.92**	**51.67**

Interest on Working Capital (IWC)

77. Regulations 34(1)(c), 34(3), 34(4) and 3(7) of the 2019 Tariff Regulations specify 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. Definitions. -** 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;"*

78. The Petitioner has submitted that it has computed IWC for the 2019-24 period considering the SBI Base Rate plus 350 basis points as on 1.4.2021. The Petitioner has considered the rate of IWC as 10.50%. IWC is worked out in accordance with Regulation 34 of the 2019 Tariff Regulations. The rate of IWC considered is 10.50% (SBI 1 year MCLR applicable as on 1.4.2021 of 7.00% plus 350 basis points and SBI 1 year MCLR applicable as on 1.4.2022 of 7.00% plus 350 basis points) for the 2021-22 and 2022-23 respectively. Similarly, the rate of IWC considered is 12.00% (SBI 1 year MCLR applicable) as on 1.4.2023 of 8.50% plus 350 basis points for the 2023-24. The components of the working capital and interest allowed thereon with respect to the transmission asset are as follows:

(₹ in lakh)

Particulars	**2021-22 (pro-rata for 127 days)**	**2022-23**	**2023-24**
Working Capital for O&M Expenses (O&M Expenses for 1 month)	4.02	4.16	4.31
Working Capital for Maintenance Spares (15% of O&M Expenses)	7.23	7.49	7.75
Working Capital for Receivables (Equivalent to 45 days of annual transmission charges)	61.02	64.78	69.31
Total Working Capital	**72.27**	**76.43**	**81.37**
Rate of Interest (in %)	10.50	10.50	12.00
Interest on Working Capital	**2.64**	**8.02**	**9.76**

Annual Fixed Charges for the 2019-24 Tariff Period

79. The transmission charges allowed for the transmission asset for the 2021-24 tariff period are as follows:

(₹ in lakh)

Particulars	2021-22 (pro-rata for 127 days)	2022-23	2023-24
Depreciation	55.06	170.86	187.20
Interest on Loan	41.20	121.26	123.00
Return on Equity	56.51	175.35	192.12
Interest on Working Capital	2.64	8.02	9.76
O & M Expenses	16.78	49.92	51.67
Total	**172.19**	**525.41**	**563.75**

Filing Fee and the Publication Expenses

80. The Petitioner has sought reimbursement of the fee paid by it for filing the petition and publication expenses. The Petitioner shall be entitled to reimbursement of the filing fees and publication expenses in connection with the present petition directly from the beneficiaries on a pro-rata basis in accordance with Regulation 70(1) of the 2019 Tariff Regulations.

Licence Fee & RLDC Fees and Charges

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

Goods and Services Tax

82. The Petitioner has submitted that if GST is levied at any rate and at any point of time in the 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 the demand from Government/ Statutory authorities, and the same may be allowed to be recovered from the beneficiaries.

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

Security Expenses

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

85. We have considered the submissions of the Petitioner. The Petitioner has claimed consolidated security expenses on a projected basis for the 2019-24 tariff period on the basis of actual security expenses incurred in 2018-19 in Petition No. 260/MP/2020. The Commission, vide order dated 3.8.2021 in Petition No. 260/MP/2020, approved security expenses from 1.4.2019 to 31.3.2024. 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.

Capital Spares

86. The Petitioner has sought reimbursement of capital spares at the end of the tariff period. The Petitioner's claim, if any, shall be dealt with in accordance with the provisions of the 2019 Tariff Regulations.

Sharing of Transmission Charges

87. UPPTCL vide affidavit dated 25.10.2023, and its Written Submissions filed on 11.12.2023 made the following submissions:

(i) The provisions of the 2020 Sharing Regulations are not applicable as the sharing of transmission charges applies only if the tariff is determined. However, in the present case, the tariff cannot be decided for want of approval of COD in terms of Regulation 5(2) of the 2019 Tariff Regulations and also in terms of Regulation 6.3A(3 (iv) of the 2010 Grid Code and for the reasons that the transmission asset was not in use from the date of claimed COD, i.e., 25.11.2021. Therefore, the same has been specifically prohibited to be included in the capital cost as per Regulation 19(5)(a) of the 2019 Tariff Regulations.

(ii) While applying the provisions of the 2020 Sharing Regulations, the Commission has to take a harmonious approach as the 2020 Sharing Regulations cannot be applied in violation of express provisions of the 2019 Tariff Regulations, which prohibits the inclusion of the assets in capital cost which is not in use. Therefore, in the present case, the Petitioner has sought a determination of the tariff from the date of the claimed COD, i.e., 25.11.2021, at the time when the transmission asset could not be put into use due to the non-execution of the downstream system. Hence, if the transmission asset is excluded from the capital cost in accordance with Regulation 19(5) of the 2019 Tariff Regulations, then the capital cost of the project shall be zero, and therefore, for the determination of tariff, RoE, IoL, IWC, and depreciation will also be zero, and the Petitioner will be entitled to claim only operation and maintenance expenses which will be determined on the normative basis.

(iii) UPPTCL's downstream system was delayed due to reasons beyond its control owing to RoW, forest clearances, delay in approval from the authorities, and particularly, delay in granting approval by the Petitioner for crossing the lines. Since, the above delay was beyond the control of UPPTCL, it would be appropriate to consider the energization of the transmission line of UPPTCL, i.e., on 18.11.2022 without delay, and the transmission charges for the bays should not be recovered from UPPTCL.

(iv) The Petitioner has not made any specific prayer for recovering the transmission charges from it, and as such, the present petition is liable to be rejected on the basis of the facts and circumstances as narrated by UPPTCL.

88. In response, the Petitioner has made the following submissions:

(i) Allow the sharing of the transmission charges in accordance with Regulation 57 of the 2019 Tariff Regulations, and the same will be shared by the beneficiaries and long-term transmission customers in accordance with the Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2010, as amended from to time.

(ii) Due to the non-availability of associated downstream network, i.e., the 400 kV D/C Jaunpur (UPPTCL)-Varanasi (PG) transmission line of UPPTCL and the Jaunpur Sub-station and upon readiness of the asset certified by CEA and RLDC, the Petitioner filed the present petition for approval of COD of the transmission asset in terms of Regulation 5(2) of the 2019 Tariff Regulations.

89. We have considered the submissions of the Petitioner and UPPTCL and have gone through the record. We are of the view that the 400 kV D/C Jaunpur (UPPTCL)-Varanasi (PG) transmission line and the Jaunpur Sub-station are part of intra-State

transmission system under the scope of UPPTCL. It is noted that the Commission is not determining tariff for the intra-State line, i.e., the 400 kV D/C Jaunpur (UPPTCL)-Varanasi (PG) transmission line and the Jaunpur Sub-station of UPPTCL, and accordingly, the Petitioner may approach the concerned State Electricity Regulatory Commission for the determination of tariff and its related issues.

90. With regard to the contention of UPPTCL that the downstream system is delayed due to the non-performance of the statutory duty of the Petitioner, we have perused the minutes of the 4th meeting of NRSCT held on 25.7.2019. The relevant extracts of the same are as follows:

> ***"7.0 Construction of 2 nos. of 400 kV bays under ISTS at 765/400 kV PGCIL substation, Varanasi:***
> *7.1 CEA stated that in the 38th meeting of Standing Committee on Power System Planning for Northern Region, Jaunpur-Varanasi (PGCIL) 400 kV D/c line and 400 kV bays at Varanasi (PGCIL) were approved. UPPTCL vide its letter no. 57/Dir (Comm & plg)/UPPTCL/2019/TWC Queries dated 26.06.2019 has informed that 400 kV Jaunpur substation(UPPTCL) is under construction and shall be completed by January 2021 and construction of Jaunpur-Varanasi (PGCIL) 400 kV D/c line will be completed by November 2020. In view of above, UPPTCL has requested to construct 02 nos 400 kV bays (GIS) at Varanasi (PGCIL) under ISTS scheme.*
>
> *7.2 UPPTCL clarified that the bays would be required by January 2021.*
>
> *7.3 After deliberations, members agreed for the implementation of the 2 no of 400 kV bays (GIS) at 765/400 kV Varanasi (PGCIL-GIS) substation for Jaunpur-Varanasi (PGCIL) 400 kV D/c line under ISTS with the implementation schedule of January 2021."*

91. In view of the above discussions, it is observed that UPPTCL had requested that the bays will be required by January 2021. Accordingly, the Petitioner has taken approval of its Board of Directors on 31.3.2020 with SCOD of the bays (GIS) at the 765/400 kV Varanasi (PGCIL-GIS) as 30.1.2021. We do not find any merit in the contentions of UPPTCL, hence, the same are rejected.

92. UPPTCL has further contended that energisation of the 400 kV D/C line Jaunpur-Varanasi (PGCIL) transmission line may be considered as 18.11.2022, without delay and the transmission charges for the bays should not be recovered from UPPTCL.

93. We have considered the above contention of UPPTCL. We have approved the COD of the transmission asset as 25.11.2021 under Regulation 5(2) of the 2019 Tariff Regulations on account of the fact that the associated transmission line under the scope of UPPTCL was not ready. In view of this, all the contentions raised by UPPTCL with reference to the COD of the transmission asset as per the tariff regulations and Grid Code including the exclusion of the capital cost as per the provisions of Regulation 19(5) of the 2019 Tariff Regulations have no merits. Accordingly, they are not sustainable.

94. The relevant extracts of the RLDC charging certificate submitted by the Petitioner is as follows:

Subject: Confirmation of No load charging of 400kV Bays 416,417,418,419,420 and 421 at Varanasi (PG).

References:

1. Submission of pre-charging formats A1-A5 and B1-B5 on date **22.09.2021, 27.09.2021, 28.09.2021, 06.10.2021, 16.10.2021 and 26.10.2021.**
2. Submission of request letter and mail dated **26.11.2021 and 27.11.2021** respectively for issuance of first time charging certificate.

Based on above references and records available with NRLDC, it is hereby confirmed that the following Transmission elements were charged for the first time as mentioned below:

S No.	Name of transmission element	NRLDC code	Date	Time of charging	Remarks
1	400kV Main bay 416 of Jaunpur CKt-1 at Varanasi (PG)	NR2111-5287	23.11.2021	15:38	Bay was charged on No Load.
2	400kV Tie bay 417 of Jaunpur CKt-1 and Future line at Varanasi (PG)	NR2111-5293	23.11.2021	15:51	Bay was charged on No Load.
3	400kV Main bay 418 of Future line at Varanasi (PG)	NR2111-5295	23.11.2021	15:57	Bay was charged on No Load.
4	400kV Main bay 419 of Jaunpur CKt-2 at Varanasi (PG)	NR2111-5307	23.11.2021	16:19	Bay was charged on No Load.
5	400kV Tie bay 420 of Jaunpur CKt-2 and Future line at Varanasi (PG)	NR2111-5310	23.11.2021	16:37	Bay was charged on No Load.
6	400kV Tie bay 421 of Future line at Varanasi (PG)	NR2111-5315	23.11.2021	16:53	Bay was charged on No Load.

This letter is issued on the request of transmission licensee.

Yours faithfully,

H.K. Chawla

H. K. Chawla
CGM (SO-I), NRLDC

Sub: Charging and trial run of 400kV Tie Bay 420 of Jaunpur Line-II and Future Line at Varanasi(PG)400kV Main Bay 419 of 400kV Jaunpur-II at Varanasi(PG)400kV Tie Bay 417 of Jaunpur Line-I and Future Line at Varanasi(PG)400kV Main Bay 416 of 400kV Jaunpur-I at Varanasi(PG) Case ID: 1118682 Provisional approval

Ref: 1) Your application dated - 11 Nov 2022 17:14, 10 Nov 2022 16:13 in Format-I

2) NRLDC response dated - 11 Nov 2022 10:32, 15 Nov 2022 11:15 in Format-II

3) Your request and details forwarded on dated - 16 Nov 2022 18:39,15 Nov 2022 13:57 in Format III, IIIA, IIIC, and IIID

Madam/Sir,

The above documents have been examined by NRLDC and permission for charging of

1. 400kV Tie Bay 420 of Jaunpur Line-II and Future Line at Varanasi(PG)
2. 400kV Main Bay 419 of 400kV Jaunpur-II at Varanasi(PG)
3. 400kV Tie Bay 417 of Jaunpur Line-I and Future Line at Varanasi(PG)
4. 400kV Main Bay 416 of 400kV Jaunpur-I at Varanasi(PG)

on or after 18 Nov 2022 13:02 is hereby accorded. **Approval is subjected to availability of real time data and grid conditions.** This approval is provisional and in the intervening period, if any of the conditions given in the undertakings submitted by you are found to be violated, the approval stands canceled. Kindly obtain a real time code from the NRLDC for each element switching as well as commencement of trial operation.

Thanking you,

Date : 18 Nov 2022 13:02

Signature
Name: Kamaldeep
Designation: Chief Manager
NRLDC

Certificate of completion of Trial Operation of 400kV Bay 416(Main) and 417(Tie) of 400 KV Jaunpur (UP)-Varanasi(PG) (UP) Ckt-1 and 400kV Bay 419(Main) and 420(Tie) of 400 KV Jaunpur (UP)-Varanasi(PG) (UP) Ckt-2 at Varanasi(PG).

Reference:

1. **POWERGRID** Communication dated **10 Nov 2022 16:13, 11 Nov 2022 17:14, vide Format - I and 15 Nov 2022 13:57, 16 Nov 2022 18:39, vide Format - III** regarding the submission of pre charging documents for -

i) 400kV Tie Bay 420 of 400 KV Jaunpur (UP)-Varanasi(PG) (UP) Ckt-2 and Future Line at Varanasi(PG)

ii) 400kV Main Bay 419 of 400 KV Jaunpur (UP)-Varanasi(PG) (UP) Ckt-2 at Varanasi(PG)

iii) 400kV Tie Bay 417 of 400 KV Jaunpur (UP)-Varanasi(PG) (UP) Ckt-1 and Future Line at Varanasi(PG)

iv) 400kV Main Bay 416 of 400 KV Jaunpur (UP)-Varanasi(PG) (UP) Ckt-1 at Varanasi(PG)

2. NRLDC Acknowledgement dated **15 Nov 2022 11:15** vide Format - II and Provisional Approval dated **18 Nov 2022 13:03** vide Format - IV.

3. Real time code issued by NRLDC on request of **POWERGRID** Real Time Code No:- **NR2211-4905 and NR2301-9076.**

4. **POWERGRID** , Communication dated **07 Oct 2023 15:04, 11 Oct 2023 16:29,** vide Format - V regarding the submission of post charging documents.

Based on above references, it is hereby certified that the following Transmission elements have been successfully completed the trial operation:

Name of the Transmission Asset:	1. 400kV Tie Bay 420 of 400 KV Jaunpur (UP)-Varanasi(PG) (UP) Ckt-2 and Future Line at Varanasi(PG) 2. 400kV Main Bay 419 of 400 KV Jaunpur (UP)-Varanasi(PG) (UP) Ckt-2 at Varanasi(PG) 3. 400kV Tie Bay 417 of 400 KV Jaunpur (UP)-Varanasi(PG) (UP) Ckt-1 and Future Line at Varanasi(PG) 4. 400kV Main Bay 416 of 400 KV Jaunpur (UP)-Varanasi(PG) (UP) Ckt-1 at Varanasi(PG)
Owner of the Transmission Asset:	POWERGRID
Date and Time of Energization for commencement of successful trial run operation	1. 11-02-2023- 15:30Hrs
Date/Time of completion of successful trial run operation	1. 12-02-2023- 15:30Hrs

This certificate is being issued in accordance with Regulation 6.3(A)(5) of CERC(Indian Electricity Grid Code) Regulation,2010 to certify successful completion of trial operation of transmission element. Usage of this certificate for any other purpose is prohibited.

01/11/2023

Nabarun Roy

Executive Director

95. It is noticed from the above RLDC charging certificate, the successful trial operation of the bays at the Varanasi Substation and the 400 kV D/C Jaunpur (UPPTCL)-Varanasi (PG) transmission line was completed on the following dates:

Trial operation the Petitioner's Asset	Trial operation of the UPPTCL transmission line	COD of the Substation under the control of UPPTCL
2 no. of 400 kV line bays at Varanasi Sub-station (23.11.2021)	400 kV D/C Janupur (UPPTCL)-Varanasi (PG) transmission line (18.11.2022)	400/220/132/33 kV Jaunpur Substation (COD :12.02.2023)

96. In view of the above discussion, we find that the bays at Varanasi, whose COD we have approved as 25.11.2021, were under the control of the Petitioner, and associated downstream network i.e., the 400 kV D/C Janupur (UPPTCL)-Varanasi (PG) transmission line was under the scope of work of UPPCL which became ready on 18.11.2022 and the 400/220/132/33 kV Jaunpur Substation was ready on 12.02.2023. Therefore, UPPTCL is liable to pay the transmission charges from 25.11.2021 to 11.02.2023 and the transmission charges for the transmission asset with effect from 12.02.2023 shall be included in the PoC Pool. The transmission charges approved for the transmission asset shall be governed in terms of provisions of the 2020 Sharing Regulations as provided under Regulation 57 of the 2019 Tariff Regulations.

97. To summarise, AFC allowed in respect of the transmission asset for the 2019-24 tariff period in this order is as follows:

(₹ in lakh)

Particulars	2021-22 (pro-rata for 127 days)	2022-23	2023-24
AFC	172.19	525.41	563.75

98. Annexure to this order forms part of the order.

99. This order disposes of Petition No. 133/TT/2023 in terms of the above findings and discussions.

sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson

ANNEXURE

2019-24	Admitted Capital Cost as on 1.4.2019 (₹ in lakh)	Projected ACE (₹ in lakh)				Admitted Capital Cost as on 31.3.2024 (₹ in lakh)	Rate of Depreciation as per Regulations	Annual Depreciation as per Regulations (₹ in lakh)		
Capital Expenditure		**2021-22**	**2022-23**	**2023-24**	**Total**		**(in %)**	**2021-22**	**2022-23**	**2023-24**
Sub-station	2702.34	155.62	287.09	287.09	729.80	3432.14	5.28	146.79	158.48	173.64
PLCC	43.58	2.51	4.63	4.63	11.77	55.35	6.33	2.84	3.06	3.36
IT Equipment (Incl. Software)	55.90	3.22	5.94	5.94	15.10	71.00	15.00	8.63	9.31	10.20
Total	**2801.82**	**161.35**	**297.66**	**297.66**	**756.67**	**3558.49**		**158.26**	**170.86**	**187.20**
						Average Gross Block (₹ in lakh)		2882.50	3112.00	3409.66
						Weighted Average Rate of Depreciation (in %)		**5.49**	**5.49**	**5.49**