CENTRAL ELECTRICITY REGULATORY COMMISSION

NEW DELHI

Petition No. 289/TT/2023

Coram:

Shri Jishnu Baura, Chairperson
Shri Arun Goyal, Member

Date of Order: 06.06.2024

In the matter of:

Approval under Regulation 86 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for determination of transmission tariff from COD to 31.3.2024 of Asset 1: Shifting of 400 kV side of 400/220 kV, 315 MVA ICT-I at Durgapur from Bus Section-A to Bus Section-B (without physically shifting the transformer so that all 03 numbers of ICTs are on the same 400 kV Bus Section-B) under “Eastern Region Strengthening Scheme-XXIV” in Eastern Region.

And in the matter of:

Power Grid Corporation of India Limited,
SAUDAMINI, Plot No-2,
Sector-29, Gurgaon-122001 (Haryana). **....Petitioner**

Versus

1. Bihar State Power (Holding) Company Limited,
   Vidyut Bhawan, Bailey Road,
   Patna-800001.

2. West Bengal State Electricity Distribution Company Limited,
   Bidyut Bhawan, Bidhan Nagar,
   Block DJ, Sector-II, Salt Lake City,
   Calcutta-700091.

3. Grid Corporation of Orissa Limited,
   Shahid Nagar, Bhubaneswar-751007.

4. Damodar Valley Corporation,
   DVC Tower, Maniktala,
   Civic Centre, VIP Road, Calcutta-700054.

5. Power Department,
   Government of Sikkim,
   Gangtok-737101.

6. Jharkhand Bijli Vitran Nigam Limited,
   Engineering Building, H.E.C., Dhurwa,
   Ranchi-834004. …. **Respondent(s)**

For Petitioner: Shri Vivek Kumar Singh, PGCIL
Shri Amit Yadav, PGCIL
Ms. Ashita Chauhan, PGCIL

For Respondent: None

ORDER

The instant petition has been filed by Power Grid Corporation of India Limited for the determination of tariff under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (hereinafter referred to as "the 2019 Tariff Regulations") for the period from COD to 31.3.2024 in respect of **Asset 1:** Shifting of 400 kV side of 400/220 kV, 315 MVA ICT-I at Durgapur from Bus Section-A to Bus Section-B (without physically shifting the transformer so that all 03 numbers of ICTs are on the same 400 kV Bus Section-B) (hereinafter referred to as the "transmission asset") under "Eastern Region Strengthening Scheme - XXIV" (hereinafter referred to as the "transmission project") in the Eastern Region.

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

"1) Approve the Transmission Tariff for the tariff block 2019-24 block for the asset covered under this petition, as per para –8.3 above.

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

3) Approve the COD for the subject Asset-I and allow full tariff as claimed under instant petition.

4) Allow the petitioner to recover the shortfall or refund the excess Annual Fixed Charges, on account of Return on Equity due to change in applicable Minimum

Alternate/Corporate Income Tax rate as per the Income Tax Act, 1961 (as amended from time to time) of the respective financial year directly without making any application before the Commission as provided in Tariff Regulation 2019 as per para 8.3 above for respective block.

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

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

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

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

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

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

Background

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

a. The Investment Approval (IA) of the transmission project was accorded by the Board of Directors (BoD) of the Petitioner on 19.6.2021, communicated vide Memorandum No. C/CP/PA2122-03-0G-IA006 dated 21.6.2021, at an estimated cost of ₹270 lakh, including an IDC of ₹6 lakh based on December 2020 price level. Further, the Revised Cost Estimate (RCE) for the transmission project was approved by the BoD of the Petitioner on 19.5.2023, communicated vide Memorandum No. C/CP/PA2324-09-0AF-RCE009, dated 6.6.2023, with the revised estimated cost of ₹450 lakh, including IDC of ₹5 lakh based on the December, 2022 price level.

b. The transmission project was initially discussed and approved in the meeting held at Central Electricity Authority on 28.11.2019. The relevant extract of the meeting is as follows:

> *"……………. observed that with the operationalization of split bus arrangement at Durgapur (POWERGRID), the power flow on 400/220 kV ICTs on either side of the split bus arrangement at Durgapur (POWERGRID) is observed to be uneven. In order to balance the power flow on ICTs, it was proposed to shift the 315MVA ICT-1 from Durgapur-A section to Durgapur-B section so that all the 3x315MVA ICTs would remain in Durgapur-B section……………….."*

c. The transmission project was ratified and approved in the 1st Eastern Region Power Committee (Transmission Planning) (ERPCTP) held on 14.2.2020. Subsequently, it was approved in the 3rd meeting of the National Committee on Transmission (NCT) held from 26.5.2020 to 28.5.2020. Thereafter, the same was also concurred and approved in the meeting with constituents of the Eastern Region in the 43rd TCC and ERPC meeting held on 23.3.2021 and 26.3.2021.

d. The scope of work covered under the transmission project broadly includes as follows:

A. Sub-station:

Extension of 400 kV Durgapur Sub-station

- Shifting of 400 kV side of 400/220 kV, 315 MVA ICT-I at from Durgapur-A section to Durgapur-B Section without physically shifting of ICT such that all three ICT's are on same 400 kV Bus Section (Durgapur-B).

e. The scope of work associated with the transmission project has been completed and has been covered under the instant petition.

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

5. The Petitioner has served the petition on the Respondents and notice regarding

filing of this petition has also been published in 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. None of the Respondents have filed a reply to the petition.

6. This order is issued considering the submissions made by the Petitioner in the petition and subsequent affidavits dated 14.12.2023, and 12.1.2024.

7. The hearing of the matter was held on 27.2.2024, and the order was reserved.

8. Having heard the learned the representatives of the Petitioner and after perusing the material on record, we proceed to dispose of the petition.

DETERMINATION OF ANNUAL FIXED CHARGES FOR 2019-24 TARIFF PERIOD

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

(₹ in lakh)

Particulars	2022-23 (pro-rata 132 days)	2023-24
Depreciation	6.00	19.87
Interest on Loan	5.31	16.72
Return on Equity	6.41	21.20
O&M Expenses	0.23	0.76
Interest on Working Capital	0.00	0.00
Total	**17.95**	**58.55**

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

(₹ in lakh)

Particulars	2022-23 (pro-rata 132 days)	2023-24
O&M Expenses	-	-
Maintenance Spares	-	-
Receivables	6.12	7.20

Total Working Capital	6.12	7.20
Rate of Interest (in %)	10.50	10.50
Interest on Working Capital	**0.23**	**0.76**

Date of Commercial Operation ("COD")

11. The Petitioner has claimed the COD of the transmission asset as 20.11.2022. In support of the COD of the transmission asset, the Petitioner has submitted the CEA Energization Certificate dated 9.11.2022 required under Regulation 43 of Central Electricity Authority (CEA) (Measures relating to Safety and Electric Supply) Regulations, 2010, ERLDC Charging Certificate dated 26.12.2022, self-declaration COD letter dated 22.11.2022 and Petitioner's CMD Certificate as required under the Grid Code.

12. Taking into consideration the CEA Energization Certificate, ERLDC Charging Certificate, the Petitioner's CMD Certificate, the COD of the transmission asset is approved as 20.11.2022.

Capital Cost

13. 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."

14. The Petitioner vide Auditor's Certificates dated 27.1.2023 has claimed the following capital cost incurred as on COD and Additional Capital Expenditure (ACE) projected to be incurred in respect of the transmission asset:

(₹ in lakh)

FR Approved Cost	RCE Approved Cost	Expenditure up to COD	Projected ACE		Estimated Completion Cost as on 31.3.2024
			2022-23	2023-24	
270.00	450.00	279.39	74.51	44.71	398.61

Cost over-run

15. The Petitioner has submitted that the total approved cost as per the IA is ₹270.00 lakh and the estimated completion cost is ₹398.61 lakh as on 31.3.2024. The Petitioner vide affidavit dated 14.12.2023 has submitted the RCE for the transmission project and

the revised estimated completion cost of ₹450.00 lakh as on 31.3.2025 as per the Auditor's Certificate.

16. The Petitioner has submitted that the estimated completion cost of the transmission asset is within the RCE cost, therefore, there is no cost over-run. Further, the Petitioner has also submitted the detailed reasons for the variation in FR cost of ₹270.00 lakh vis-à-vis RCE cost of ₹450.00 lakh, which are as follows:

a) Price Variation (PV) (Net increase of ₹40 lakh: 14.88 %)

There has been an increase in the cost of the transmission project by ₹40 lakh on this account, which works out to 14.88 % of the approved cost, on account of the price difference from the time of approval of the transmission project till the award of various contracts based on competitive prices received as per competitive bidding. The Petitioner has submitted that the contracts for various packages under the transmission project were awarded to the lowest evaluated and responsive bidder on the basis of competitive bidding by the Petitioner. The awarded price represents the lowest prices offered at the time of bidding for various packages.

b) Variation in the quantity of approved items (Net increase of ₹60 lakh: 22.14%)

During the execution of the transmission project, there has been an increase in the quantities that are envisaged during the preparation of the DPR. This has resulted in an increase of ₹80 lakh in the project cost, which works out to 29.54% of the approved cost. Details of quantity variation are as follows:

420 kV equipment	: ₹0.54 lakh
Structures including Foundation Bolts	: ₹33.16 lakh
Civil Works, including dismantling and re-erection	: ₹46.07 lakh

Further, a provision of ₹20 lakh on a normative basis was kept in DPR under the infrastructure for the Sub-station extension head (which was not required during the actual execution stage) resulting in a decrease of ₹20 lakh in the project cost, which is (-) 7.41% of the approved cost.

c) New Addition (Net increase of ₹40 lakh: 14.64 %)

There are works amounting to ₹40 lakh which are being carried out and were not envisaged during DPR, but, subsequently, as per the technical requirement at the execution stage, the same were taken into consideration. The details of the same are as follows:

- NTAMC integration works,
- Procurement and configuration of BCUs,
- Cable wiring, peak, GI connector/clamp, and other services, etc.

d) Variation in IDC and IEDC (Net increase of ₹40 lakh: 14.96%)

The total cost of the transmission project under the head ‘IEDC and IDC’ of the transmission project has increased by ₹40 lakh in comparison to the approved cost, which works out to 14.96%.

17. We have considered the Petitioner’s submissions. As compared to FR cost, the estimated complete cost as on 31.3.2024 is in variation of about ₹128.61 lakh. As per Form-5, submitted by the Petitioner, the main variation is towards the foundation for structures and structure switchyard. The Petitioner has submitted the RCE dated 6.6.2023, which was approved by the Committee of Directors on Investment on Projects (COIP) on 19.5.2023, at an estimated cost of ₹450.00 lakh. The estimated completion cost of the transmission asset as on 31.3.2024 for the transmission asset is lower than the RCE cost by ₹51.39 lakh. Thus, there is no cost over-run with respect to the transmission asset. Since the Petitioner vide affidavit dated 14.12.2023 has submitted an estimated completion cost of ₹450.00 lakh as on 31.3.2025 as per the Auditor’s Certificate, the Petitioner may claim the balance completion cost at the time of true up subject to prudence check.

Time over-run

18. As per IA dated 19.6.2021, the scheduled date of commercial operation (SCOD) of the transmission project was 9 months from the date of IA. Accordingly, the SCOD of the transmission asset is 18.3.2022, against which the transmission asset was put into commercial operation on 20.11.2022. Therefore, there is a time over-run of 247 days in the execution of the transmission asset. The details of SCOD, COD, and time over-run are as follows:

SCOD	COD	Time over-run
18.3.2022	20.11.2022	247 days

19. The major reasons for time over-run, as submitted by the Petitioner, is due to Covid-19 (2nd wave) related lockdown and restrictions and unprecedented rainfall in the lean season induced by cyclonic activities. The detailed justification is as follows:

I. <u>Delay due to Covid-19 (2nd wave) related lockdown and restrictions</u>

a. Covid-19 was identified by WHO as the global pandemic and a '*force majeure'* event across all segments/ verticals of the global business/ industry. This situation, by definition(s), was of unforeseen / unplanned nature. As such, the global business and production and execution on the ground took a multiple fold hit.

b. The projects undertaken by the Petitioner were no exception. They faced a multitude of challenges as they navigated through largely uncharted territory, with projects and supply lines experiencing highly unique and mounting risks leading to delays in execution from the effects of Covid-19.

c. The progress of works was affected by 2nd wave of the Covid-19 pandemic. Similar to the Covid-19 1st wave, the mid 2021 lockdown restricted people from stepping out of their homes across the country. All transport services, including road, air, and rail transport, were suspended, with exceptions for transportation of essential goods, fire, police, and emergency services. The Government

(Central and State) had locked down all the cities and restricted the movement from one place to another. The movement restriction affected the critical supply chain, transportation, worker/ labour absenteeism due to illness/ quarantine/ migration, etc., which resulted in the completed halting of ongoing projects. The lockdown imposition voluntary step back of construction workers, which was also unforeseen and unavoidable. The sites were either closed or access was largely restricted as a result of measures to contain the Covid-19 outbreak. Therefore, the contractors were not able to carry out the work as a result of actions by governments to prevent the spread of the outbreak.

d. Lack of engineering and technical support and supply chain disruptions were the major factors impacting the project schedule and implementations. Thus, execution of various projects including the instant transmission project faced delays due to squeezing of supply lines and construction activities.

e. The reference of relevant orders issued by the Centre/ State Government for the period of June 2021 to August 2021 are as follows:

The MHA (Ministry of Home Affairs, GoI) order dated 29.6.2021
The Government of WB order dated 28.6.2021
The Government of WB order dated 14.7.2021
The Government of WB order dated 29.7.2021

<table>
<tr><th>Date</th><th>Restriction Period</th><th>Restrictions imposed</th><th>Remark</th></tr>
<tr><td>29.6.2021</td><td>29.6.2021 to 31.7.2021</td><td>• Staggered work timing and manpower
• Social distancing & Frequent sanitization
• DMs to enforce restrictions under CrPC and Disaster Management Act</td><td>Extension of Guidelines for containment of Covid-19 issued from Union Home Secretary, Government of India.</td></tr>
<tr><td>28.6.2021</td><td>28.6.2021 to 15.7.2021</td><td rowspan="3">• Govt. Offices to work at 25% capacity.
• Transport movement at 50% capacity.
• Production related industries to work at 50% capacity, etc.</td><td rowspan="3">Extension of Guidelines for containment of Covid-19 issued from Chief Secretary, Government of West Bengal.</td></tr>
<tr><td>14.7.2021</td><td>14.7.2021 to 30.7.2021</td></tr>
<tr><td>29.7.2021</td><td>29.7.2021 to 15.8.2021</td></tr>
</table>

f. The Ministry of Power (MoP), Government of India, vide letter dated

12.6.2021, also provided an extension of 03 months with respect to ongoing inter-State transmission projects owing to unforeseen circumstances forced by the Covid-19 pandemic. Thus, the time period scheduled for the execution of the above works was affected by the Covid-19 (2^{nd} Wave) restrictions is approximately 3 months.

II. <u>Delay due to unprecedented rainfall in the lean season</u>

a. The unseasonal and unprecedented rainfall in and around Durgapur (under Burdwan {Bardhaman} District of West Bengal) during the period of the lean rainfall season, i.e., in the months of September 2021 to December 2021 led to the deferment of works associated with the transmission asset.

b. The months of October, November, and December are defined as post monsoon/ winter season by the Meteorological Department of India, which normally has meagre rainfall as per the Long Period Average (LPA) in Durgapur. However, the actual rainfall in these months was unprecedented and in large excess as compared to their respective LPAs owing to reasons such as disturbances caused by few cyclonic activities in the Bay of Bengal and the development of low pressure over areas of Odisha and West Bengal.

c. The major cyclonic activities in the above period severely impacted the rainfall pattern during the above-mentioned period, leading to unprecedented and unseasonal precipitation as follows:

  i. Cyclonic Storm ‘Gulaab’ in September, 2021
  ii. Cyclonic Storm ‘Shaheen’ in October, 2021
  iii. Cyclonic Storm ‘Jawad’ in December, 2021

d. The above cyclonic disturbances led to:

  i. formation of a Pressure System
  ii. convergence of winds leading to a situation of heavy to very heavy rainfall
  iii. strong winds, lightning, and thunderstorms in the areas under its range.

e. The civil works were planned, keeping in mind the rainfall pattern in and around Durgapur.

f. However, the unprecedented and continuous rainfall over these months affected the execution of civil works as per the revised plan, which was initially disturbed owing to Covid-19-related restrictions. Further, the continuous rainfall in this period was also accompanied by lightning and thunderstorm conditions which are not considered ideal for executing works in an electrically charged switchyard, in this case, being 400 kV Durgapur Sub-station, apart from issues related to hindrances caused by waterlogging, restricted movement of machinery, swift mobilisation/ re-mobilisation of man and material, etc.

g. The Commission vide order dated 29.4.2011 in Petition No. L-1/44/2010-CERC approved the Model Transmission Service Agreement (Model TSA) wherein Clause 14.2.1 of the Model TSA defined *"force majeure"* as follows:

> *"**14.0 Force Majeure***
> *……………………..*
> *14.2.1 Natural Force Majeure Events*
> *(a) Act of God, including, but not limited to drought, fire and explosion (to the extent originating from a source external to the Site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last hundred (100) years;"*

h. As per clause 14.2.1 of the Model TSA, exceptional adverse weather conditions that are in excess of the statistical measures for the last hundred (100) years can be considered as force majeure, and in such cases, any delays will not be attributable to the Petitioner.

i. As per data available from the website of the Indian Meteorological Department, the rainfall excess during the said period as against long term average at Durgapur (under Burdwan {Bardhaman} District of West Bengal) was as follows:

- During September 2021, the total rainfall recorded was about 361.10 mm, which was 60% above normal (LPA) rainfall.

- During October 2021, the total rainfall recorded was about 144.10 mm, which was 45% above normal (LPA) rainfall.
- During November 2021, the total rainfall recorded was about 59.20 mm, which was 797% above normal (LPA) rainfall.
- During December 2021, the total rainfall recorded was about 51.50 mm, which was 929% above normal (LPA) rainfall.

j. The works related to the transmission asset, particularly civil works, were affected largely due to unprecedented and unseasonal rains during lean rainfall periods as compared to LPA of the region, which were unforeseen and uncontrollable on the part of the Petitioner. Further, there were thunderstorms accompanied by lightning which are not desirable to carry out works in charged premises of a Sub-station. Accordingly, the delay on account of said reason was for approximately about 4 months.

20. The Petitioner further submitted that the delay was beyond the control of the Petitioner and that even the events associated with the delay were unforeseen, and even though various problems occurring concurrently could have delayed the project enormously, the experience and expertise of the Petitioner in project planning and execution curtailed the delay through efficient and relentless efforts of the Petitioner. Based on the above unforeseen reasons, the Petitioner has prayed to condone the delay in the completion of the transmission asset.

21. We have considered the Petitioner's submissions. We have also gone through the documentary evidence placed on record by the Petitioner justifying the time over-run. As per the IA dated 19.6.2021, the transmission project was scheduled to be put into commercial operation within 9 months from the date of IA, i.e., by 18.3.2022, against which the transmission asset has been put into commercial operation on 20.11.2022, with a time overrun of 247 days. The Petitioner has submitted that the transmission asset is delayed due to the Covid-19 (2nd wave) related lockdown and

restrictions and unprecedented rainfall in the lean season induced by cyclonic activities.

22. The MoP vide letter dated 12.6.2021 has extended the SCOD of the inter-State transmission projects by three months due to the Covid-19 pandemic. The relevant portion of the letter dated 12.6.2021 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 COVID19 as mentioned above at point(i), shall also be extended by three (3) months.*
>
> *3. This issue with the approval of Competent Authority."*

23. The IA of the transmission project was approved on 19.6.2021 with SCOD within 09 months, i.e., by 18.3.2022. Also, as per Form-5A, as submitted by the Petitioner, the work for the transmission project was awarded to Power Engineering Associates on 30.6.2021. Therefore, as the transmission project was not under construction as on 01.04.2021, the extension of 03 months in respect of the SCOD as per the MoP letter dated 12.6.2021 is not applicable in the instant case.

24. Further, the Petitioner has submitted that unprecedented and continuous

rainfall as compared to LPA in and around Durgapur (Under Burdwan {Bardhaman} District of West Bengal) over the months of September 2021 to December 2021 affected the execution of civil works as per revised plan. Regulation 3(25) of the 2019 Tariff Regulations defines "*force majeure*" as follows:

> *"(25) 'Force Majeure' for the purpose of these regulations means the events or circumstances or combination of events or circumstances including those stated below which partly or fully prevents the generating company or transmission licensee to complete the project within the time specified in the Investment Approval, and only if such events or circumstances are not within the control of the generating company or transmission licensee and could not have been avoided, had the generating company or transmission licensee taken reasonable care or complied with prudent utility practices:*
>
> *(a) Act of God including lightning, drought, fire and explosion, earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, geological surprises, or exceptionally adverse weather conditions which are in excess of the statistical measures for the last hundred years; or"*

25. As per Regulation 3(25) of the 2019 Tariff Regulations, the Petitioner has to submit data for the last hundred years to show that the rainfall during the above-mentioned periods was abnormal. As the Petitioner has not submitted any such information to show that the rain during the said period was abnormal, we are not able to accept the Petitioner's claim that the rain during the said period was abnormal and it affected the execution of the transmission asset. Hence, the delay of 4 months attributed to excess rainfall is not condoned.

26. The details of the time over-run considered in the case of the transmission asset are as follows:

Original SCOD	COD	Time Over-run	Time Over-run condoned	Time Over-run not condoned
18.3.2022	20.11.2022	247 Days	-	247 Days

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

27. The Petitioner has claimed the IDC for the transmission asset and has submitted

the statement showing IDC claim, discharge of IDC liability as on COD and, thereafter, and the same is as follows:

(₹ in lakh)

IDC as per Auditor's Certificate	IDC discharged up to COD	IDC discharged during 2022-23	IDC discharged during 2023-24
4.63	0.28	4.35	-

28. We have considered the Petitioner's submissions. As the time over-run in case of the transmission asset is not condoned, the IDC claimed by the Petitioner for the period beyond the SCOD has to be disallowed. Further, it is observed that the loans deployed to calculate the amount of IDC of ₹4.63 lakh are drawn after the SCOD, i.e., during the period of time over-run (March 2022 to November 2022). Therefore, the total amount of IDC disallowed is as follows:

(₹ in lakh)

IDC as per Auditor's Certificate	IDC disallowed due to time over- run not condoned	IDC allowed	IDC discharged upto COD	IDC discharged during 2022-23	IDC discharged during 2023-24
4.63	4.63	NIL			

29. Further, the Petitioner has claimed the Additional Capital Expenditure (ACE) during 2022-23 vide Auditor's Certificate dated 27.1.2023, and the same is not inclusive of the proposed liability in respect of the discharge of IDC. Hence, the total amount of IDC disallowed is deducted from the capital cost as on COD.

30. The Petitioner has claimed IEDC of ₹69.28 lakh for the transmission asset as per the Auditor's Certificate dated 27.1.2023. The Petitioner has further submitted that the entire amount of IEDC for the transmission asset has been discharged up to COD. As the entire time over-run in the case of the transmission asset has been disallowed, the

IEDC for the transmission asset has been allowed in proportion to the date of IA to the SCOD. Accordingly, the IEDC claimed as per the Auditor's Certificate, IEDC considered 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 (C)=(A-B)
69.28	32.97	36.31

31. The Petitioner has not claimed any Initial Spares for the transmission asset.

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

(₹ in lakh)

Capital cost claimed as on COD (Auditor's Certificate) (A)	IDC disallowed due to time over-run not condoned (B)	Undischarged IDC as on COD (C)	IEDC disallowed (D)	Capital cost as on COD (E) = (A-B- C-D)
279.39	4.63	-	32.97	241.79

Additional Capital Expenditure ("ACE")

33. Regulation 24 of the 2019 Tariff Regulations provides 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."

34. The Petitioner has claimed that the ACE incurred/ projected to be incurred is mainly on account of balance/ retention payments and works deferred for execution, hence, the same is claimed under Regulation 24(1)(a) and Regulation 24(1)(b) of the 2019 Tariff Regulations. The Petitioner has claimed capital cost as on 31.3.2024 as follows:

(₹ in lakh)

FR Approved Cost	RCE Approved Cost	Expenditure up to COD	Projected ACE		Estimated Completion Cost as on 31.3.2024
			2022-23	2023-24	
270.00	450.00	279.39	74.51	44.71	398.61

35. The Petitioner, vide affidavit dated 12.1.2024, has submitted the following details with respect to discharged and deferred payments:

(₹ in lakh)

Party	Particulars	2022-23	2023-24
Power Engineering and Associates	Sub-station	74.51	44.71

36. We have considered the Petitioner's submissions. The projected ACE is allowed under Regulation 24(1)(a) of the 2019 Tariff Regulations on account of the balance/retention payments and under Regulation 24(1)(b) of the 2019 Tariff Regulations on account of works deferred for execution is as follows:

(₹ in lakh)

Particulars	2022-23	2023-24
ACE as per Auditor's Certificate	74.51	44.71
Add: IDC Discharged	-	-
ACE allowed in the instant order	**74.51**	**44.71**

37. The capital cost considered for the transmission assets for the 2019-24 tariff

period is as follows:

(₹ in lakh)

Capital Cost as on COD	Projected ACE		Capital Cost as on 31.3.2024
	2022-23	2023-24	
241.79	74.51	44.71	361.01

38. The instant transmission project involves the shifting of the 400 kV side of 400/220 kV, 315 MVA ICT-I from Durgapur Section-A to Durgapur Section-B without physically shifting of ICT. The Petitioner, while filing true-up of tariff for the 2019-24 tariff period, shall claim the capital cost as on COD and actual ACE for 2022-23 and 2023-24 as ACE under the original petition where the Commission has approved the tariff for 400/220 kV, 315 MVA ICT-I at Durgapur.

Debt-Equity ratio

39. 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."

40. The Petitioner has claimed the debt-equity ratio of 70:30 in respect of the transmission asset, and the same has been considered in accordance with Regulation 18(1) of the 2019 Tariff Regulations, which is as follows:

Funding	**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	169.25	70.00	83.45	70.00	252.71	70.00
Equity	72.54	30.00	35.77	30.00	108.30	30.00
Total	**241.79**	**100.00**	**119.22**	**100.00**	**361.01**	**100.00**

Depreciation

41. 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."

42. We have considered the Petitioner's submissions. The depreciation has been worked out considering the admitted capital expenditure as on COD. The weighted average rate of depreciation (WAROD) has been worked out and placed at Annexure as per the rates of depreciation specified in the 2019 Tariff Regulations. Depreciation allowed in respect of the transmission asset for the 2019-24 tariff period is as follows:

(₹ in lakh)

	Particulars	**2022-23 (pro-rata 132 days)**	**2023-24**
	Depreciation		
A	Opening Gross Block	241.79	316.30
B	ACE	74.51	44.71
C	Closing Gross Block (A+B)	316.30	361.01
D	Average Gross Block (A+C)/2	279.04	338.65

	Particulars	2022-23 (pro-rata 132 days)	2023-24
	Depreciation		
E	Weighted average rate of Depreciation (WAROD) (in %)	5.28	5.28
F	Balance useful life of the asset (Year)	25	25
G	Lapsed life at the beginning of the year (Year)	0	0
H	Aggregate Depreciable Value	251.14	304.79
I	**Depreciation during the year**	**5.33**	**17.88**
J	Aggregate Cumulative Depreciation (at the end of the year)	5.33	23.21
K	Remaining Aggregate Depreciable Value (at the end of the year)	245.81	281.58

Interest on Loan ("IoL")

43. 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."

44. The Weighted Average Rate of Interest on Loan (WAROI) has been considered on the basis of the rate prevailing as on COD. 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, will be considered at the time of true-up. Therefore, the IoL has been allowed in accordance with Regulation 32 of the 2019 Tariff Regulations for the transmission assets, and the same is as follows:

(₹ in lakh)

	Particulars	**2022-23 (pro-rata 132 days)**	**2023-24**
A	Gross Normative Loan	169.25	221.41
B	Cumulative Repayments upto Previous Year	-	5.33
C	Net Loan-Opening (A-B)	169.25	216.08
D	Additions due to ACE	52.16	31.30
E	Repayment during the year	5.33	17.88
F	Net Loan-Closing (C+D-E)	216.08	229.50
G	Average Loan (C+F)/2	192.67	222.79
H	Weighted Average Rate of Interest on Loan (in %)	6.764	6.758
I	**Interest on Loan**	**4.71**	**15.06**

Return on Equity ("RoE")

45. Regulation 30 and Regulation 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."

46. The Petitioner submitted that the MAT rate is applicable to the Petitioner's company. Accordingly, the MAT rate applicable in 2019-20 has been considered for the purpose of RoE, which will be trued-up with actual tax rate in accordance with Regulation 31(3) of the 2019 Tariff Regulations. RoE allowed for the transmission asset for the 2019-24 tariff period as follows:

(₹ in lakh)

	Particulars	2022-23 (pro-rata 132 days)	2023-24
A	Opening Equity (A)	72.54	94.89
B	Additions (B)	22.35	13.41
C	Closing Equity (C) = (A+B)	94.89	108.30
D	Average Equity (D) = (A+C)/2	83.71	101.60
E	Return on Equity (Base Rate) (in %)	15.500	15.500
F	MAT Rate for respective year (in %)	17.472	17.472
G	Rate of Return on Equity (in %)	18.782	18.782
H	**Return on Equity**	**5.69**	**19.08**

Operation & Maintenance Expenses ("O&M Expenses")

47. The Petitioner has not claimed any O&M Expenses for the 2019-24 period with respect to the instant transmission asset.

48. The Petitioner has submitted that the ICT-I at Durgapur, along with the associated bay, was executed in November 1987 (Notional COD: April 1992) and has been capitalized under the project "Transmission System associated with Farakka I & II" in the Eastern Region. The Petitioner has submitted that the tariff, including O&M Expenses for the same, has already been claimed in the truing up Petition No. 323/TT/2020 under "Transmission System associated with Farakka I & II" in the Eastern Region.

49. The Petitioner has submitted that in the case of the instant transmission asset, only bay re-orientation cost has been claimed in accordance with the approved scope of works under the transmission project, and hence, no O&M Expenses are being claimed in the instant petition.

Interest on Working Capital ("IWC")

50. Regulation 34(1)(c), Regulation 34(3), Regulation 34(4) and Regulation 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:***

a. Receivables equivalent to 45 days of annual fixed cost;
b. Maintenance spares @ 15% of operation and maintenance expenses including security expenses; and
c. 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:-*

*'**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;"*

51. 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 1.4.2019. The Petitioner has considered the rate of IWC as 10.50%.

52. The IWC is worked out in accordance with Regulation 34 of the 2019 Tariff Regulations. The Rate of Interest (RoI) considered is 10.50% (SBI 1 year MCLR applicable as on 1.4.2022 of 7.00% plus 350 basis points) for 2022-23 and 12.00% (SBI 1 year MCLR applicable as on 1.4.2023 of 8.50% plus 350 basis points) for 2023-24.

53. The components of the working capital and interest allowed thereon are as follows:

(₹ in lakh)

	Particulars	2022-23 (pro-rata 132 days)	2023-24
A	Working Capital for O&M Expenses (O&M Expenses for one month)	-	-
B	Working Capital for Maintenance Spares (15% of O&M Expenses)	-	-
C	Working Capital for Receivables (Equivalent to 45 days of annual transmission charges)	5.43	6.49
D	**Total Working Capital**	**5.43**	**6.49**
E	Rate of Interest (in %)	10.50	12.00
F	**Interest on Working Capital**	**0.21**	**0.78**

Annual Fixed Charges for the 2019-24 Tariff Period

54. The transmission charges allowed for the transmission asset for the 2019-24 tariff period are as follows:

(₹ in lakh)

	Particulars	2022-23 (pro-rata 132 days)	2023-24
A	Depreciation	5.33	17.88
B	Interest on Loan	4.71	15.06
C	Return on Equity	5.69	19.08
D	O&M Expenses	0.00	0.00
E	Interest on Working Capital	0.21	0.78
F	**Total**	**15.94**	**52.80**

Filing Fee and the Publication Expenses

55. The Petitioner has sought reimbursement of the fee paid by it for filing the petition and publication expenses. The Petitioner is 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

56. The Petitioner has sought reimbursement of the licensee fee in accordance with Regulation 70(4) of the 2019 Tariff Regulations for the 2019-24 tariff period. The

Petitioner is 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 is also be entitled for recovery of RLDC fees and charges in accordance with Regulations 70(3) of the 2019 Tariff Regulations for the 2019-24 tariff period.

Goods and Services Tax

57. 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 demand from Government/ Statutory authorities, and the same may be allowed to be recovered from the beneficiaries.

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

Sharing of Transmission Charges

59. The COD of the transmission asset is approved as 20.11.2022. Accordingly, the transmission charges approved in this order shall be recovered in terms of Regulation 57 of 2019 Tariff Regulations and shall be shared by the beneficiaries and long-term transmission customers as per Central Electricity Regulatory Commission (Sharing of Inter State Transmission Charges and Losses) Regulations, 2020 as amended from to time.

60. To summarize:

a. AFC allowed for the 2019-24 tariff period is as follows:

(₹ in lakh)

Particulars	2022-23	2023-24
AFC	15.94	52.80

61. The Annexure to this order forms part of the order.

62. This order disposes of Petition No. 289/TT/2023 in terms of the above findings and discussions.

sd/-
(Arun Goyal)
Member

sd/-
(Jishnu Barua)
Chairperson

ANNEXURE

Capex	Admitted capital cost as on COD	Projected ACE					Admitted capital cost as on 31.3.2024	Depreciation Rate (in %)	Annual Depreciation				
		2019-20	2020-21	2021-22	2022-23	2023-24			2019-20	2020-21	2021-22	2022-23	2023-24
Building	-	-	-	-	-	-	-	3.34	-	-	-	-	-
Transmission Line	-	-	-	-	-	-	-	5.28	-	-	-	-	-
Sub-station	241.79	-	-	-	74.51	44.71	361.01	5.28	-	-	-	14.73	17.88
PLCC	-	-	-	-	-	-	-	6.33	-	-	-	-	-
IT Equipment	-	-	-	-	-	-	-	15.00	-	-	-	-	-
Total	**241.79**	**-**	**-**	**-**	**74.51**	**44.71**	**361.01**		**-**	**-**	**-**	**14.73**	**17.88**
								Average Gross Block	**-**	**-**	**-**	**279.04**	**338.65**
								WAROD (in %)	**0.00**	**0.00**	**0.00**	**5.28**	**5.28**