

**Central Electricity Regulatory Commission
New Delhi**

Petition No. 7/TT/2023

Coram:

**Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member**

Date of Order: 08.08.2025

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 the determination of transmission tariff from COD to 31.3.2024 for Asset-A: 2 Nos. 400 kV line bays at 400 kV Mapusa Sub-station (for termination of Xeldem- Mapusa 400 kV D/C (Quad) Line, (Line under TBCB)), and Asset-B: 1x80 MVar, 420 kV fixed line reactor along with 500 Ohms NGR and its auxiliaries at Narendra (New) (Kudgi- GIS) Sub-stations [for Narendra (New) –Xeldem 400 kV Quad line formed after LILO of one circuit of Narendra (Existing) – Narendra (New) 400 kV D/c quad line at Xeldem] under “POWERGRID works associated with additional 400 kV feed to Goa”.

And in the matter of:

Power Grid Corporation of India Limited,
“Saudamini”, Plot No. 2,
Sector 29, Gurgaon-122 001 (Haryana).

... Petitioner

Vs.

- 1. Madhya Pradesh Power Management Company Limited,**
Shakti Bhawan, Rampur,
Jabalpur - 482 008.
- 2. Maharashtra State Electricity Distribution Co. Limited,**
Hongkong Bank Building, 3rd Floor,
M.G. Road, Fort, Mumbai-400 001.



- 3. Gujarat Urja Vikas Nigam Limited,**
Sardar Patel Vidyut Bhawan,
Race Course Road, Vadodara - 390 007.
- 4. Electricity Department,**
Govt. of Goa, Vidyut Bhawan, Panaji,
Near Mandvi Hotel, Goa - 403 001.
- 5. Electricity Department,**
Administration of Daman & Diu,
Daman - 396 210.
- 6. DNH Power Distribution Corporation Limited,**
Vidyut Bhawan, 66 kV Road, Near Secretariat Amli,
Silvassa - 396 230.
- 7. Chhattisgarh State Power Transmission Co. Limited,**
Office of the Executive Director (C&P),
State Load Despatch Building,
Dangania, Raipur – 492 013.
- 8. Tamil Nadu Generation and Distribution Corporation Limited,**
NPKRR Maaligai, 800, Anna Salai, Chennai – 600 002.
- 9. Transmission Corporation of Andhra Pradesh Limited (APTRANSCO),**
Vidyut Soudha, Near Axis Bank ATM, ELURU Road,
Gunadala, Vijaywada – 520004.
- 10. Kerala State Electricity Board Limited (KSEBL),**
Vaidyuthi Bhavanam,
Pattom, Thiruvananthapuram – 695 004.
- 11. Electricity Department,**
Govt of Pondicherry,
Pondicherry - 605001.
- 12. Eastern Power Distribution Company of Andhra Pradesh Limited (APEPDCL),**
P&T Colony, Seethmmadhara, Vishakhapatnam,
Andhra Pradesh.



- 13. Southern Power Distribution Company of Andhra Pradesh Limited (APSPDCL),**
Srinivasasa Kalyana Mandapam Backside,
Tiruchanoor Road, Kesavayana Gunta,
Tirupati-517 501, Chittoor District,
Andhra Pradesh.
- 14. Southern Power Distribution Company of Telangana Limited (TSSPDCL),**
6-1-50, Corporate Office, Mint Compound,
Hyderabad – 500 063, Telangana.
- 15. Northern Power Distribution Company of Telangana Limited (TSNPDCL),**
H.No 2-5-3 1/2, Vidyut Bhawan, Corporate Office,
Nakkal Gutta, Hanamkonda,
Warangal – 506 001,
Telangana.
- 16. Bangalore Electricity Supply Company Limited (BESCOM),**
Corporate Office, K.R.Circle
Bangalore – 560 001,
Karnataka.
- 17. Gulbarga Electricity Supply Company Limited (GESCOM),**
Station Main Road, GULBURGA,
Karnataka.
- 18. Hubli Electricity Supply Company Limited (HESCOM),**
Navanagar, PB Road, HUBLI,
Karnataka.
- 19. MESCOM Corporate Office,**
Paradigm Plaza, AB Shetty Circle
Mangalore – 575 001, Karnataka.
- 20. Chamundeswari Electricity Supply Corporation Limited (CESC),**
927, L J Avenue, Ground Floor, New Kantharaj Urs Road
Saraswatipuram, Mysore – 570 009,
Karnataka.



21. Goa Tamnar Transmission Projects Limited (GTTPL),

F-1, Mira Corporate Suits, 1 & 2,
Mathura Road, Ishwar Nagar,
New Delhi – 110065.

... Respondents

Parties Present : Ms. Abiha Zaidi, Advocate, PGCIL
Shri Pritam Raman Giriya, Advocate, PGCIL
Shri Gaurav Dudeja, Advocate, GTTPL
Shri Dhruval Singh, Advocate, GTTPL
Shri Anup Jain, Advocate, MSEDCL
Shri Nishtha Goel, Advocate, MSEDCL
Shri Mohd. Mohsin, PGCIL
Shri Zafrul Hasan, PGCIL
Shri Arjun Malhotra, PGCIL

ORDER

The instant Petition has been filed by the 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 the date of commercial operation (COD) to 31.3.2024 for **Asset-A**: 2 Nos. 400 kV line bays at 400 kV Mapusa Sub-station (For termination of Xeldem – Mapusa 400 kV D/C (quad) line, (Line under TBCB); and **Asset-B**: 1x80 MVAR, 420 kV fixed line reactor along with 500 Ohms NGR and its auxiliaries at Narendra (new) (Kudgi – GIS) Sub-station [for Narendra (new) –Xeldem 400 kV quad line formed after LILO of one circuit of Narendra (existing) – Narendra (new) 400 kV D/c quad line at Xeldem] (hereinafter referred to as “the transmission assets”) under “POWERGRID works associated with additional 400 kV feed to Goa” (hereinafter referred to as “the transmission project”).

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) Condone the delay in commissioning of above mentioned assets as the reasons mentioned at para 6 are beyond the control of petitioner and allow IDC and IEDC as claimed in the 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 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 claim the overall security expenses and consequential IOWC on that security expenses separately.

9) Allow the petitioner to claim the capital spares at the end of tariff block as per actual.

10) 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.

11) 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.

12) Allow Final tariff in accordance with Regulation 10 (5) 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 (the IA) of the transmission project was accorded by the Competent Authority of the Petitioner on 7.9.2018, and conveyed vide Memorandum



dated 14.9.2018, at an estimated cost of ₹2476 lakh, including an Interest During Construction (IDC) of ₹157 lakh at the June 2018 price level.

b) The transmission project was approved in the 41st Standing Committee Meeting (SCM) of Power System Planning of the Western Region constituents held on 21.12.2016 and subsequent meeting held on 17.1.2017 at Gandhinagar, and the same was ratified in the 34th Western Region Power Committee (WRPC) meeting held on 28.7.2017.

4. The broad scope of work covered under the transmission project is as follows:

Sub-station

a) 400 kV Extension at Mapusa Sub-station

2 Nos. 400 kV line bays at Mapusa 400 kV Sub-station (For termination of Xeldem – Mapusa 400 kV D/C (quad) line, being implemented under TBCB)

b) Extension at Narendra (New) (Kudgi-GIS) Sub-station

1x80 MVAR, 420 kV fixed line reactor along with 500 Ohms NGR and its auxiliaries at Narendra (new) (Kudgi-GIS) Sub-station [for Narendra (new) –Xeldem 400 kV (quad) line formed after LILO of one circuit of Narendra (existing) – Narendra (new) 400 kV D/C quad line at Xeldem]

Reactive Compensation

S. No.	Sub station	Bus Reactor
1	400/220 kV Narendra (new) Sub-station	1x80 MVAR, 420 kV switchable line reactor along with 500 Ohms NGR and its auxiliaries at Narendra (new) (Kudgi – GIS) Sub-station

The entire scope of the transmission project is covered in the instant Petition.

5. The Respondents, mainly beneficiaries of the Southern and the Western Regions, are Distribution Licensees, Transmission Licensees and Power Departments, which are procuring transmission services from the Petitioner.

6. The Petitioner has served a copy of the Petition on the Respondents, and notice regarding the filing of this Petition has also been published in the newspapers in accordance with Section 64 of the Electricity Act, 2003 (the Act). No comments or suggestions have been received from the general public in response to the aforesaid notice. Respondent No.1, Madhya Pradesh



Power Management Company Limited (MPPMCL) and Respondent No. 21, Goa Tamnar Transmission Projects Limited (GTTPL), have filed their respective replies vide affidavits dated 5.4.2023 and 17.10.2023, respectively. The Petitioner has filed its rejoinder to the replies filed by MPPMCL and GTTPL vide affidavits dated 25.9.2023 and 15.11.2023, respectively. Respondent No.2, Maharashtra State Electricity Distribution Company Limited (MSEDCL), has filed its written submissions dated 15.1.2024. GTTPL has filed its written submissions dated 16.1.2024 and additional information vide affidavit dated 30.7.2024 pursuant to the Record of Proceedings (RoP) for the hearing dated 16.7.2024. The Petitioner has also filed additional information vide affidavit dated 5.9.2024. The issues raised by the Respondents and clarifications thereto given by the Petitioner have been dealt with in the relevant portions of this order.

7. The hearing in this matter was held on 15.12.2023, and the order was reserved. However, the order could not be issued prior to the Members of the Commission, who formed part of the Coram, demitting the office. Accordingly, the matter was listed for the re-hearing on 16.7.2024. The final hearing in this matter was held on 20.8.2024, and the matter was reserved for the order.

8. This order is being issued considering the Petitioner's submissions made vide affidavits dated 26.8.2022 and 5.9.2024; MPPMCL's reply filed vide affidavit dated 5.4.2023, GTTPL's replies filed vide affidavits dated 17.10.2023 and 30.7.2024; the Petitioner's rejoinder to the replies of MPPMCL and GTTPL vide affidavits dated 25.9.2023 and 15.11.2023 respectively; written submissions of the Petitioner, MSEDCL and GTTPL dated 5.8.2024, dated 16.1.2024 and dated 16.1.2024 respectively.



9. Having heard the Petitioner's representatives and the learned counsels for the Petitioner and the Respondents, and after perusing the material on record, we proceed to dispose of the Petition.

Determination of Annual Fixed Charges for the 2019-24 Tariff Period

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

(₹ in lakh)

Asset-A						
S No	Particulars	2019-20	2020-21	2021-22 (Pro-rata for 270 days)	2022-23	2023-24
1	Depreciation	0.00	0.00	42.13	60.20	62.27
2	Interest on Loan	0.00	0.00	35.06	46.85	44.61
3	Return on Equity	0.00	0.00	43.47	62.30	64.55
4	O&M Expenses	0.00	0.00	50.97	71.32	73.82
5	Interest on Working Capital	0.00	0.00	3.51	4.93	5.04
	Total	0.00	0.00	175.14	245.60	250.29

(₹ in lakh)

Asset-B						
S No	Particulars	2019-20	2020-21	2021-22 (Pro-rata for 87 days)	2022-23	2023-24
1	Depreciation	0.00	0.00	10.49	47.00	50.24
2	Interest on Loan	0.00	0.00	8.25	35.32	35.18
3	Return on Equity	0.00	0.00	11.20	50.27	53.99
4	O&M Expenses	0.00	0.00	0.00	0.00	0.00
5	Interest on Working Capital	0.00	0.00	0.39	1.74	1.82
	Total	0.00	0.00	30.33	134.33	141.23

11. 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)

Asset-A					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
O&M Expenses	0.00	0.00	5.74	5.94	6.15
Maintenance Spares	0.00	0.00	10.34	10.70	11.07
Receivables	0.00	0.00	29.19	30.28	30.77
Total Working Capital	0.00	0.00	45.27	46.92	47.99
Rate of Interest (In %)	0.00	0.00	10.50	10.50	10.50
Interest on Working Capital	0.00	0.00	3.51	4.93	5.04



(₹ in lakh)

Asset-B					
Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
O&M Expenses	0.00	0.00	0.00	0.00	0.00
Maintenance Spares	0.00	0.00	0.00	0.00	0.00
Receivables	0.00	0.00	15.69	16.56	17.36
Total Working Capital	0.00	0.00	15.69	16.56	17.36
Rate of Interest (In %)	0.00	0.00	10.50	10.50	10.50
Interest on Working Capital	0.00	0.00	0.39	1.74	1.82

Date of Commercial Operation (COD)

12. The Petitioner has claimed the COD of Assets A and B as 5.7.2021 and 4.1.2022, respectively, under Regulation 5(2) of the 2019 Tariff Regulations. According to the Petitioner, the associated transmission line, Xeldem-Mapusa 400 kV D/C quad, implemented by GTTPL under the Tariff Based Competitive Bidding (TBCB) route, was delayed. Therefore, the COD of the transmission assets, i.e. Assets A and B, is claimed under Regulation 5(2) of the 2019 Tariff Regulations. As per the IA, the following are the details of SCOD and COD of the transmission assets:

Asset	Asset Name	SCOD*	Proposed COD under Regulation 5(2) of the 2019 Tariff Regulations
A	2 Nos 400 kV line bays at Mapusa 400 kV S/S (For termination of Xeldem – Mapusa 400 kV D/C (quad) line, being implemented under TBCB).	14.3.2021	5.7.2021
B	1x80 MVAR, 420 kV switchable line reactor along with 500 Ohms NGR and its auxiliaries at Narendra (new) (Kudgi – GIS) S/S. [for Narendra (new) –Xeldem 400 kV (quad) line formed after LILO of one ckt of Narendra (existing) – Narendra (new) 400 kV D/C quad line at Xeldem].	14.9.2021	4.1.2022

* The associated transmission line was constructed under the TBCB route by GTTPL with a time schedule of 38 months for Xeldem – Mapusa and 44 months for Narendra (New) –Xeldem 400 kV (quad), respectively. Accordingly, the schedule of completion within 30-36 months was decided in the IA dated 14.9.2018 to match the associated transmission system.

13. In support of the proposed COD of Asset-A, the Petitioner has submitted a copy of the CEA Energisation Certificate, Idle RLDC Charging Certificate, CMD Certificate, and notice given



to GTTPL. In support of the proposed COD of Asset-B, the Petitioner has submitted a copy of the CEA Energisation Certificate, RLDC Charging Certificate, and CMD Certificate.

14. With regard to Asset-A, the Petitioner has submitted that the associated transmission, namely, Xeldem - Mapusa 400 kV D/C quad being implemented by GTTPL, under TBCB, was delayed from the SCOD and due to this reason, the Petitioner was not in a position to provide the service for the reasons not attributable to it, its suppliers or the contractors. Accordingly, the Petitioner has claimed the COD of Asset-A under Regulation 5(2) of the 2019 Tariff Regulations. The Petitioner has submitted a chronology of communications and intimations given to GTTPL, the TBCB licensee, in respect of Asset-A, and the same is as under:

Date	Description
29.1.2021	Intimation to GTTPL regarding the expected readiness of bays at Mapusa Sub-station.
16.3.2021	Intimation to GTTPL regarding the expected readiness of bays at Mapusa Sub-station.
19.6.2021	Intimation to GTTPL under First Proviso to Regulation 5(2) of the 2019 Tariff Regulations.

15. For the COD of Asset-B, the Petitioner has submitted that the associated transmission system, i.e., LILO of one circuit of Narendra (existing) - Narendra (new) 400 kV D/C quad line at Xeldem, being implemented by GTTPL, under TBCB, was delayed from the SCOD. The Petitioner was, therefore, unable to provide the service for reasons not attributable to it, its suppliers or the contractors from the claimed COD of Asset-B. Accordingly, the Petitioner has invoked the provisions of Regulation 5(2) of the 2019 Tariff Regulations. The Petitioner submitted a chronology of communications and intimations given to GTTPL, the TBCB licensee, in respect of Asset-A, and the same is as under:

Date	Description
13.8.2021	Intimation to GTTPL under first proviso to Regulation 5(2) of the 2019 Tariff Regulations.
3.12.2021	CEA Clearance.
13.12.2021	First time charging clearance, issued by SRLDC.
29.12.2021	Intimation to GTTPL under first proviso to Regulation 5(2) of the 2019 Tariff Regulations.



16. As regards the mismatch between the proposed COD of Asset B and its trial operation, the Petitioner has submitted that CEA inspection and approval for Asset B were accorded on 3.12.2021. The Petitioner has further submitted that the first-time charging clearance from the Southern Region Load Despatch Centre (SRLDC) was obtained on 13.12.2021. However, SRLDC later informed the Petitioner to get the final clearance from the Southern Region Power Committee (SRPC). According to the Petitioner, Asset B, under its scope, was ready to be put into use prior to 3.1.2022. Hence, the Petitioner has proposed the COD of Asset B as 4.1.2022. The Petitioner has further submitted that it approached the SRPC OCC forum for the commissioning of Asset-B for system requirements, and the chronology of communications with the SRPC OCC forum is hereunder:

Date	Description
3.1.2022	Letter to SRPC OCC Forum for the commissioning of the reactor
10.1.2022	186 th SRPC OCC Forum meeting
28.1.2022	SRPC Commercial Sub-committee meeting
9.2.2022	187 th SRPC OCC Forum meeting
9.3.2022	188 th SRPC OCC Forum meeting
30.3.2022	Notification of trial operation issued
31.3.2022	Charging of reactor completed at Narendra (new) (Kudgi GIS) Sub-station

17. The Petitioner has submitted that on 3.1.2022, it submitted an agenda to the SRPC OCC forum for commissioning of the 80 MVAR line reactor at Kudgi Sub-station for system requirements, and the SRPC OCC forum deliberated on the same and flagged it to the Commercial sub-committee meeting for deliberation on the commercial implications. The Petitioner has further submitted that on 28.1.2022, the Commercial sub-committee deliberated on the commercial implications and referred it back to the SRPC OCC forum for deliberation on the technical requirements of the reactor under over-voltage conditions. On 9.2.2022, the SRPC OCC forum, in its 187th meeting, requested SRLDC to submit the voltage profile at the Kudgi



complex, considering different scenarios during the past year and furnish a report for consideration in the next meeting of OCC.

18. According to the Petitioner, on 9.3.2022, SRLDC concluded that, based on the voltage profile of Kudgi-PG for the year 2021, charging the 80 MVAR Line Reactor at Kudgi Sub-station (associated with the LILO of one circuit of the 400 kV Kudgi-Narendra D/C line at Xeldem) would help in controlling overvoltages in and around the 400 kV Kudgi-PG station during off-peak periods. The forum approved the charging of the Kudgi 80 MVAR reactor for trial run operation (24 hours), and after completing the trial run, the reactor would be taken out. Accordingly, the Petitioner has submitted that the line reactor was successfully charged on 30.3.2022 at 14:54 hrs. and completed the trial operation on 31.3. 2022 at 14:54 hrs.

19. The Respondent, GTTPL, has submitted the following:

- (i) GTTPL was, *inter alia*, developing the elements (i) LILO of one ckt. of Narendra (existing)-Narendra (New) 400 kV D/C quad line at Xeldem (NN Line) and (ii) Xeldem-Maupsa 400 kV D/C (quad) line (XM Line).
- (ii) In terms of the Transmission Service Agreement (TSA) dated 28.6.2017 executed by GTTPL with its Long-Term Transmission Customers (LTTCS), the original SCOD of the NN Line was 13.11.2021, and the original SCOD of the XM Line was on 13.5.2021. The original SCODs of the NN Line and XM Line were revised to 13.7.2022 and 13.1.2022, respectively (Revised SCOD), only on account of 8 (Eight) months' extension to the SCOD granted by the Ministry of Power, Government of India (MoP), *vide* its orders dated 27.7.2020 and 12.6.2021 (MoP orders). The Revised SCOD was extended as the said lines could not be



commissioned within the stipulated timelines due to certain Force Majeure events that impacted the development and commissioning of both the lines.

- (iii) As per the IA, the SCOD for Asset A was 14.3.2021, and the same from the very beginning did not match the timeframe with the original SCOD of the Xeldem-Mapusa 400 kV D/C (quad) line (XM Line), which was 13.5.2021. Similarly, the SCOD for Asset B of the Petitioner as per the IA was 14.9.2021, whereas the original SCOD of LILO of one ckt. of Narendra (existing)-Narendra (New) 400 kV D/C quad line at Xeldem (NN Line) was 13.11.2021. The original SCODs of the Petitioner's assets vis-à-vis GTTPL's assets (which are claimed by the Petitioner to be interconnected) are as follows:

- (a) Inherent mismatch between Asset A and XM Line:

SCOD of Asset A of the Petitioner	Original SCOD of XM Line	Difference
14.3.2021	13.5.2021	Two months

- (b) Inherent mismatch between Asset B and NN Line:

SCOD of Asset B of Petitioner	Original SCOD of NN Line	Difference
14.9.2021	13.11.2021	Two months

- (iv) Right from the planning stage, there was a mismatch between the SCODs of the Petitioner's Assets A and B and the XM Line and NN Line being implemented by GTTPL.
- (v) The Petitioner, LTTCs and the coordinating agencies, such as the Central Electricity Authority (CEA), had full knowledge of the commissioning status of GTTPL assets and the Petitioner's assets. The Petitioner's assets are standalone assets that are proposed to be constructed on its existing green-field sub-stations and are not



associated with any other upstream/downstream assets under the TSA. Therefore, the Petitioner and other planning agencies could align the commissioning of its assets with the commissioning of GTTPL's assets. As there was a mismatch right from the planning stage between the SCODs of the Petitioner's assets and the GTTPL's assets, GTTPL cannot be penalised at all for any purported mismatch in SCODs of the Petitioner's assets and GTTPL assets.

- (vi) Referring to Regulation 5(2) of the 2019 Tariff Regulations, GTTPL has submitted that the Commission cannot accept the deemed COD of the Petitioner as the same is in contravention of the provisions of Regulation 6 of the 2019 Tariff Regulations.

A. The scheduled commercial operation date of the GTTPL's assets is extended as per the MoP orders.

The original SCOD of the NN Line was 13.11.2021, and the SCOD for the XM Line was 13.5.2021. However, due to the outbreak of the COVID-19 pandemic, the works pertaining to the NN Line and the XM Line came to a standstill. Accordingly, vide Office Memorandum dated 27.7.2020, the MoP granted a blanket 5-month extension to all transmission projects under implementation as on the date of lockdown, i.e., on 25.3.2020. In terms of the said memorandum, the SCOD of the GTTPL assets was revised to 13.4.2022. The MoP, vide its letter dated 12.6.2021, granted a further extension of 3 months to the SCOD of all transmission projects whose SCOD was after 1.4.2021. Consequently, the SCOD of the GTTPL's assets, namely, XM Line and NN Line, was further extended to 13.7.2022 on account of MoP orders.



- (i) The Petitioner has claimed an extension in the SCODs for its assets on account of the said MoP orders. Based on the same order of MoP, GTTPL's assets are also eligible for an extension in their SCODs.
- (ii) This Commission, in its various orders, including the order dated 18.5.2023 in Petition No. 334/TT/2022 and the order dated 15.2.2023 in Petition No. 301/TT/2022, gave effect to the said MoP orders and extended the SCOD of the Petitioner's assets. Thus, GTTPL's assets are entitled to the same treatment as the Petitioner based on the said MoP orders.
- (iii) The TSA executed by GTTPL requires its assets to be commissioned by their SCODs, and such SCOD is subsequently extended by the MoP to the revised SCOD. Therefore, GTTPL cannot be penalised for not commissioning before such a date.

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

- (i) In the instant case, the Petitioner's assets have achieved the COD, whereas the transmission lines within the scope of GTTPL were not commissioned on the claimed date of commercial operation of the Petitioner. Accordingly, the Petitioner's assets could not be utilized despite their commissioning due to the delay in the completion and commissioning of the GTTPL scope. As a result, it could not provide the service for reasons not attributable to it. Referring to the provisions of the 2019 Tariff Regulations and the 2020 Sharing Regulations, the Petitioner submitted that if its assets are ready but are prevented from achieving commercial operation due to the default of either the interconnected transmission system of another transmission licensee or a generating station, it is entitled to

seek a declaration of the deemed COD under Regulation 5(2) of the 2019 Tariff Regulations. After the deemed COD is approved by the Commission, the Petitioner is entitled to recover its tariff from the transmission licensee that has delayed the interconnecting transmission assets. GTTPL cannot thrust its force majeure events on the Petitioner, as force majeure events are in the context of its TSA with its LTTCs.

- (ii) The extension of the SCODs by the MoP Notification and other force majeure events and their financial implications, if any, will be in the four corners of the TSA, i.e., contractual obligations between TSP and its LTTCs. The extension of the SCODs due to force majeure and the aforementioned MoP circular will not absolve the Petitioner from payment of the transmission charges in terms of the Sharing Regulations 2020 in vogue.

21. GTTPL's plea of force majeure is distinct from the independent right available to the Petitioner against the defaulting entity in the case of a mismatch as envisaged under the 2019 Tariff Regulations and the 2020 Sharing Regulations. The Petitioner's associated asset (Asset – A) to the XM line was ready on 5.7.2021. As such, COD was claimed under Regulation 5 (2) of the 2019 Tariff Regulations, that is, after the original SCOD of GTTPL's XM line on 13.5.2021. Similarly, the Petitioner's associated asset (Asset – B) to the NN line was ready on 4.1.2022, and as such, its COD is claimed under Regulation 5(2) of the 2019 Tariff Regulations, i.e. after the SCOD of GTTPL's NN line on 13.11.2021. The contentions of GTTPL have been made to wriggle out of the liability for the payment of transmission charges, and the same ought to be dismissed.



22. We have considered the submissions of the Petitioner and GPTTL and have also perused the record.

23. Regulation 5 of the 2019 Tariff Regulations provides as follows:

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

(2) *In case the transmission system or element thereof executed by a transmission licensee is ready for commercial operation but the interconnected generating station or the transmission system of other transmission licensee as per the agreed project implementation schedule is not ready for commercial operation, the transmission licensee may file petition before the Commission for approval of the date of commercial operation of such transmission system or element thereof: Provided that the 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.*

(3) *The date of commercial operation in case of integrated mine(s), shall mean the earliest of —*
(a) *the first date of the year succeeding the year in which 25% of the Peak Rated Capacity as per the Mining Plan is achieved; or*

(b) *the first date of the year succeeding the year in which the value of production estimated in accordance with Regulation 7A of these regulations, exceeds total expenditure in that year; or*

(c) *the date of two years from the date of commencement of production:*

Provided that on earliest occurrence of any of the events under sub-clauses (a) to (c) of Clause (3) of this Regulation, the generating company shall declare the date of commercial operation of the integrated mine(s) under the relevant sub-clause with one week prior intimation to the beneficiaries of the end-use or associated generating station(s);

Provided further that in case the integrated mine(s) is ready for commercial operation but is prevented from declaration of the date of commercial operation for reasons not attributable to the generating company or its suppliers or contractors or the Mine Developer and Operator, the Commission, on an application made by the generating company, may approve such other date as the date of commercial operation as may be considered appropriate after considering the relevant reasons that prevented the declaration of the date of commercial operation under any of the sub-clauses of Clause (3) of this Regulation;



Provided also that the generating company seeking the approval of the date of commercial operation under the preceding proviso shall give prior notice of one month to the beneficiaries of the end-use or associated generating station(s) of the integrated mine(s) regarding the date of commercial operation.”

24. Subject to the provisions of Regulation 5(2) of the 2019 Tariff Regulations, if a 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 COD of such transmission system or element thereof. According to Regulation 5(2) of the 2019 Tariff Regulations, the Petitioner is required to give at least one month's prior notice to the transmission licensee regarding the date of commercial operation. In support of the actual COD of the transmission assets, the Petitioner has placed on record the copies of the 'Approval of Energization' certificates issued by CEA dated 24.3.2021 and 3.12.2021, the 'Certificate of Idle Charging Operation of Transmission Element' issued by WRLDC dated 15.7.2021 and 20.4.2022, certifying that idle charging operation/trial operation was completed on 4.7.2021 and 31.3.2022, and the CMD certificate in accordance with Regulation 5(2) of the 2019 Tariff Regulations. The Petitioner, vide letters dated 29.1.2021 and 29.12.2021, has issued prior notice, as required under Regulation 5(2) of the 2019 Tariff Regulations, to GTTPL, informing that the transmission assets will be ready for charging. Thus, the submission of GTTPL that Regulation 5(2) of the 2019 Tariff Regulation is not applicable to the present case is untenable.

25. GTTPL has contended that there is a mismatch of about 2 months between the SCODs of the transmission assets of the Petitioner and its Xeldem-Mapusa and Narendra- Narendra Line from the stage of planning.



26. GTTPL was incorporated as a Special Purpose Vehicle (SPV) by PFC Consulting Limited (PFCCL) as part of the Tariff Based Competitive Bidding process for implementing the Project on a Build, Operate, Own and Maintain (BOOM) basis. Sterlite Grid Limited (SGL) participated in the competitive bidding process conducted by PFCCL, and upon emerging as the successful bidder, a Letter of Intent (LoI) was issued by PFCCL to SGL on 30.11.2017. In accordance with the bidding documents, SGL acquired 100% of the shareholding in GTTPL by executing a Share Purchase Agreement with PFCCL on 14.3.2018. GTTPL entered into the Transmission Service Agreement (TSA) with LTTCs on 28.6.2017. GTTPL filed Petition No. 95/TL/2018 before the Commission for the grant of a transmission licence, and the Commission, vide its order dated 13.7.2018, granted a transmission licence to it. As per the acquisition of SPV on 14.3.2018, the SCOD of the TBCB line is as follows:

Asset	SCOD from the effective date	SCOD of the transmission line
Xeldem – Mapusa 400kV D/c (quad) line (XM line)	38 months	13.5.2021
LILO of one ckt. of Narendra (existing) - Narendra (New) 400 kV D/c quad line at Xeldem (NN line)	44 months	13.11.2021

27. In the instant case, the SCODs of the Petitioner's assets, i.e. Assets-A and B, are 14.3.2021 and 14.9.2021, respectively, and the SCODs of the associated XM line and NN line under the scope of GTTPL are 13.5.2021 and 13.11.2021, respectively. Thus, from the beginning, there is a mismatch in the SCODs of the associated transmission systems of the Petitioner and GTTPL, which could have been avoided by proper planning and coordination by the CTUIL with the Petitioner and GTTPL. In the present case, there is a mismatch in the SCODs of the transmission assets of the Petitioner and its associated transmission system being implemented by GTTPL; the SCODs of the Petitioner's Assets-A and B are considered as 13.5.2021 and 13.11.2021, matching with the SCODs of the TBCB lines.

28. GTTPL has contended that the MoP's 8-month relaxation of the COVID-19 pandemic extends the SCODs of its transmission assets by another 8 months, and as such, GTTPL should not be burdened with transmission charges during this period.

29. We have gone through the submissions of the Petitioner and GTTPL and have perused the record. The key question that arises for our consideration is whether the COD of the transmission system is extendable as per the MoP letter dated 27.07.2020 and 12.06.2021.

30. The instant transmission scheme implemented by the petitioner under the Regulated tariff Mechanism (RTM); therefore, the terms and conditions mentioned under relevant tariff regulations are applicable for the instant transmission asset.

31. Regulation 3(15) of the 2019 Tariff Regulations is extracted as under:

“(15) ‘Date of Commercial Operation’ or ‘COD’ shall have the same meaning as defined in the Grid Code as amended from time to time;”

32. Regulation 6.3A of the 2010 Grid Code is extracted as under:

“6.3A Commercial operation of Central generating stations and inter-State Generating Stations

4. Date of commercial operation in relation to an inter-State Transmission System or an element thereof shall mean the date declared by the transmission licensee from 0000 hour of which an element of the transmission system is in regular service after successful trial operation for transmitting electricity and communication signal from the sending end to the receiving end: Provided that:

(i) In case of inter-State Transmission System executed through Tariff Based Competitive Bidding, the transmission licensee shall declare COD of the ISTS in accordance with the provisions of the Transmission Service Agreement.

(ii) Where the transmission line or substation is dedicated for evacuation of power from a particular generating station and the dedicated transmission line is being implemented other than through tariff based competitive bidding, the concerned generating company and transmission licensee shall endeavour to commission the generating station and the transmission system simultaneously as far as practicable and shall ensure the same through appropriate Implementation Agreement in accordance with relevant provisions of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 or any subsequent amendment or re-enactment thereof. In case the transmission line or sub-station dedicated to a generator is being implemented through tariff based competitive bidding, then matching of commissioning of the transmission line/sub-station and generating station shall be monitored by Central Electricity Authority (iii) Where the transmission system executed by a transmission licensee is required to be connected to the transmission system executed by any other transmission licensee and both transmission systems are executed in a manner other than through tariff based



competitive bidding, the transmission licensee shall endeavour to match the commissioning of its transmission system with the transmission system of the other licensee as far as practicable and shall ensure the same through an appropriate Implementation Agreement. Where either of the transmission systems or both are implemented through tariff based competitive bidding, the progress of implementation of the transmission systems in a matching time schedule shall be monitored by the Central Electricity Authority.

(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.

(v) An element shall be declared to have achieved COD only after all the elements which are pre-required to achieve COD as per the Transmission Services Agreement are commissioned. In case any element is required to be commissioned prior to the commissioning of pre-required element, the same can be done if CEA confirms that such commissioning is in the interest of the power system.

(vi) The transmission licensee shall submit a certificate from the CMD/CEO/MD of the Company that the transmission line, sub-station and communication system conform to the relevant Grid Standard and Grid Code, and are capable of operation to their full capacity.”

33. As per the above-mentioned 2019 Tariff Regulations and 2010 Grid Code, the transmission licensee of TBCB can declare COD of the asset as per the Transmission Service Agreement, and the COD of the instant transmission project is as per the provisions of the 2019 Tariff Regulations and 2010 Grid Code. The existing tariff Regulations do not provide for the extension of the SCOD of the project implemented under RTM. Therefore, we are not inclined to consider the submission of the GTTPL for an 8-month extension as per the MoP letter dated 27.07.2020 and 12.06.2021.

34. The Commission has considered the CEA Energisation Certificate dated 24.3.2021, Idle RLDC Charging Certificate dated 15.7.2021, CMD Certificate certifying declaration of commercial operation on 4.7.2021, and notice given to GTTPL vide letters dated 29.1.2021, 16.3.2021 and 19.6.2021 for Asset-A and CEA Energisation Certificate dated 3.12.2021, RLDC Certificate for Completion of Trial Operation dated 20.4.2022, Letter dated 3.1.2022 to SRPC



regarding approval of the commissioning of the asset, CMD Certificate declaration of commercial operation on 3.1.2022, and notice given to GTTPL vide letters dated 13.8.2021 and 29.12.2021 for Asset-B is of the view that since the COD claimed for Asset-A and Asset-B is after the scheduled COD of the associated transmission assets under the scope of GTTPL, the Commission has considered the COD of Asset-A and Asset-B as 5.7.2021 and 4.1.2022 under 5(2) of the 2019 Tariff Regulations.

35. Accordingly, the COD of the transmission assets approved is as follows:

Asset	COD as claimed by the Petitioner	COD approved
Asset-A	5.7.2021	5.7.2021
Asset-B	4.1.2022	4.1.2022

Capital Cost

36. 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 Asset-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 ash disposal and utilization including handling and transportation facility;
 - (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 up to 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 Asset-forming part of the project, but not in use, as declared in the tariff petition;
 - (b) De-capitalised Asset-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 decapitalised 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 asset.
 - (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."



37. The Petitioner has submitted the Auditor's Certificate and has claimed the following capital cost incurred as on COD and Additional Capital Expenditure (ACE) projected to be incurred in respect of the transmission assets:

Asset	Apportioned cost as per the FR	Cost up to COD	Additional Capitalization				Total cost as on 31.3.2025
			2021-22	2022-23	2023-24	2024-25	
A	1442.85	1046.94	24.89	73.78	-	-	1145.61
B	1033.40	832.31	3.08	113.47	18.57	16.81	984.24
Total	2476.25	1879.25	27.97	187.25	18.57	16.81	2129.85

38. The Petitioner has submitted that against the apportioned approved cost of ₹2476.25 lakh as per the Feasibility Report (FR), the total estimated completion cost is ₹2129.85 lakh. Therefore, there is no cost overrun in the transmission assets with respect to the total FR cost. The item-wise cost variation between the apportioned approved cost and the estimated completion cost was also submitted by the Petitioner.

39. The asset-wise reasons for the cost variation in respect of the transmission assets as submitted by the Petitioner are as under:

Asset-A

i.Sub-station Equipment (Decrease of ₹284 lakh)

- The decrease in the cost of Substation equipment was mainly due to the decrease in the cost of switchgear equipment from approximately ₹553 lakh to ₹370 lakh. Similarly, the cost of other substation equipment varied. The variation was attributable to the variation in the awarded/executed cost received in the competitive bidding with respect to the unit rates considered in the FR.
- For procurement, an open competitive bidding route was followed, providing equal opportunity to all eligible firms. In the said procurement process, the lowest possible



market prices for the required products/ services were obtained, and the contracts were awarded based on the lowest evaluated eligible bidder. The best competitive bid prices against the tenders may be lower or higher than the cost estimate, depending upon the prevailing market conditions.

- c. Further, regarding the variation in the cost of individual items in the sub-station packages, the packages under the subject scope of works comprise a large number of items and the same were awarded through the open competitive bidding process. In the said bidding process, bids were received from multiple parties quoting different rates for various BOQ items under the said package. Further, the lowest bidder can be arrived at/evaluated on an overall basis only. Hence, the item-wise unit prices in contracts and their variation over the unit rate considered in the FR estimates were beyond the control of the Petitioner.

ii. Variation in IEDC and Contingency (Increase of ₹21.68 lakh): In the IA, IEDC, and contingency were estimated and considered at 10.75% and 3% of the equipment cost and civil works, respectively, whereas based on the actual expenditure, the actual IEDC up to the COD has been considered in the Auditor's Certificate.

iii. Decrease in IDC (Decrease of ₹34.64 lakh):

- a. The decrease in IDC is attributable to variation in the rate of interest considered in the FR compared to the actuals.
- b. In the FR, IDC was calculated considering the rate of interest for domestic loans at 10.5%. However, in actuality, the weighted average rate of interest of loans is floating in nature. Therefore, the actual IDC accrued up to the COD of Asset-A has been considered and provided in the Auditor's Certificate.



Asset-B

i.Sub-station Equipment- (Increase of ₹52.80 lakh)

- a. The variation in the cost of sub-station equipment was attributable to variation in awarded/executed cost received in competitive bidding with respect to the unit rates, as considered in the FR.
- b. For the purposes of procurement, an open competitive bidding route is followed by providing equal opportunity to all the eligible firms. In the said procurement process, the lowest possible market prices for the required product/services are obtained, and the contracts are awarded on the basis of the lowest evaluated eligible bidder. The best competitive bid prices against tenders may happen to be lower or higher than the cost estimate, depending upon the prevailing market conditions.
- c. Further, regarding the variation in the cost of individual items in the sub-station packages, the packages under the subject scope of works comprise a large no. of items and the same are awarded through the open competitive bidding process. In the said bidding process, bids are received from multiple parties quoting different rates for various BOQ items under the said package. Further, the lowest bidder can be arrived at/ evaluated on an overall basis only. Hence, the item-wise unit prices in contracts and their variation over the unit rate considered in the FR estimates are beyond the control of the Petitioner.

- ii. **Variation in IEDC and Contingency (Decrease of ₹44.41 lakh):** In the IA, IEDC and contingency were estimated and considered at 10.75% and 3% of the equipment cost



and civil works, respectively, whereas based on the actual expenditure, the actual IEDC up to the COD has been considered in the Auditor's Certificate.

iii. Decrease in IDC (Decrease of ₹57.55 lakh)

a. The decrease in IDC was attributable to variation in the rate of interest considered in the FR compared to the actuals.

b. In the FR, IDC was calculated considering the rate of interest for domestic loans at 10.5%. However, in actuality, the weighted average rate of interest of loans is floating in nature. Therefore, the actual IDC accrued up to the COD of Asset-B has been considered and provided in the Auditor's Certificate.

40. We have considered the Petitioner's submissions. The estimated completion cost of the transmission assets is within the FR cost. Therefore, the capital cost claimed by the Petitioner is allowed.

Cost overrun:

41. The estimated completion cost of the Assets-A and B, based on the Auditor's certificate, works out to be ₹1145.61 lakh and ₹984.24 lakh, respectively, including IEDC and IDC, as against the FR apportioned approved cost of ₹1442.85 lakh and ₹1033.40 lakh in case of Asset-A and Asset-B, respectively. Therefore, there is no cost overrun with respect to the FR cost in the case of Asset-A and Asset-B.

Time Overrun

42. The Petitioner has submitted that, as per the IA dated 14.9.2018, Assets A and B were scheduled to be commissioned within 30 and 36 months, respectively, from the date of the IA. Considering the commissioning schedule, the SCOD of Assets-A and B works out to be 14.3.2021 and 14.9.2021 for Assets A and B respectively, against which the COD of Assets A



and B is claimed as 5.7.2021 and 4.1.2022 under Regulation 5(2) of the 2019 Tariff Regulations with a delay of 3 months 22 days and 3 months 21 days, respectively.

43. The Petitioner has submitted that the delay in commissioning of the transmission assets was mainly due to the worldwide Covid-19 pandemic, which had completely stalled the work. The following reasons have been submitted by the Petitioner in this regard:

Delay due to the worldwide COVID-19 pandemic:

- i. The Covid-19 pandemic was identified by the World Health Organisation (WHO) as a global pandemic and a force majeure event across all segments/ verticals of the global business/ industry. This situation was of an unforeseen/ unplanned nature, and global business and production took a multi-fold hit. The projects undertaken by the Petitioner were no exception and faced a multitude of challenges as they navigated largely uncharted territory, with projects and supply lines experiencing highly unique and mounting risks, leading to delays in execution from the effects of the Covid-19 pandemic.

Nationwide lockdown:

- Phase 1: 25.3.2020 – 14.4.2020 (21 days)
- Phase 2: 15.4.2020 – 3.5.2020 (19 days)
- Phase 3: 4.5.2020 – 17.5.2020 (14 days)
- Phase 4: 18.5.2020 – 31.5.2020 (14 days)

Unlock:

- Unlock 1.0: 1.6.2020 – 30.6.2020 (30 days)
- Unlock 2.0: 1.7.2020 – 31.7.2020 (31 days)
- Unlock 3.0: 1.8.2020 – 31.8.2020 (31 days)
- Unlock 4.0: 1.9.2020 – 30.9.2020 (30 days)

- ii. During the above-mentioned periods, the government locked down all the cities and restricted the movement from one place to another. The movement restrictions affected the supply chain, leading to transportation shortages, worker absenteeism due to illness/quarantine/migration, and labour shortages, which resulted in a decrease in output



and delays in ongoing projects across the country. The imposed lockdowns had complicated things further, since the sites were closed or access was restricted as a measure to contain the COVID-19 outbreak. The contractors were unable to carry out the work due to actions taken by the Governments to prevent the spread of the COVID-19 outbreak.

- iii. The specific Covid-19 related challenges, such as supplier delivery issues, worker absenteeism due to illness, delayed issuance of permits, travel restrictions, and loss of time or inefficiencies owing to social distancing on the job site, were just a few of the issues that led to significant costs and disrupted schedules. The major factors impacting the project schedule and implementation were the lack of engineering and technical support and supply chain disruptions. Thus, the commissioning of various power projects faced delays due to congested supply chains and construction activities. When construction resumed, some additional delays and inefficiencies were faced due to a localised outbreak that had the potential to increase costs and further push back the completion dates. It was difficult to start the construction work. Besides, there were too many hotspots and risks involved to immediately start construction, considering that if anyone was infected on the construction site once work started, the area would be sealed and all related people would be quarantined for 14-28 days. As a result, the construction pace came to a grinding halt.
- iv. The Ministry of Power (MoP) recognized the above-mentioned bottlenecks faced by implementing agencies and issued a circular dated 27.7.2020 stating that all inter-State projects whose SCOD was beyond 25.3.2020 and which were under construction on



25.3.2020 would get an extension of 5 months in respect of SCOD due to nationwide lockdown restrictions to contain the spread of the COVID-19 pandemic.

- v. Subsequently, another circular dated 12.6.2021 was issued by the MoP stating that all inter-State projects under construction with SCOD falling after 1.4.2021 would get an extension of 3 months in respect of SCOD due to various restrictions imposed by the State and UT Governments to contain the pandemic, such as night curfew, imposition of Section 144 Cr.P.C, weekend lockdown, and complete lockdown to contain the spread of the COVID-19 pandemic's second wave.

44. In view of the above, the Petitioner has prayed to condone the delay in commissioning of the transmission assets as the same were uncontrollable factors for the Petitioner and are contemplated under Regulation 22(2) (a) of the 2019 Tariff Regulations.

45. We have considered the submissions of the Petitioner and have perused the record.

46. The MoP vide letter dated 27.7.2020 has extended the SCOD in respect of inter-State transmission projects under construction as on 25.3.2020 by 5 months due to the COVID-19 pandemic. The relevant portions of the letter dated 27.7.2020 are 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."



47. Further, MoP vide letter dated 12.6.2021 has extended the SCOD in respect of inter-State transmission projects under construction with SCOD coming after 1.4.2021 by 3 months due to the COVID-19 pandemic. The relevant portions of the letter dated 12.6.2021 are as follows:

“Subject 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 States/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; li. 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 automatically extended by three (3) months.”

48. The SCOD of the instant transmission assets, i.e. Asset-A and Asset-B, is considered as 13.5.2021 and 13.11.2021. The instant transmission assets were under construction as on 25.03.2020 and as on 1.04.2021; therefore, we note that considering the MoP's letters dated 27.7.2020 and 12.6.2021, the time overrun of 8 months is condonable under Force Majeure conditions. Accordingly, the time overrun of 53 days in commissioning of Asset-A and 52 days in commissioning of Asset-B is condoned on account of COVID-19 under Force Majeure.

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

49. The Petitioner has provided the reasons for the differences between the IDC and IEDC according to the Investment Approval and as per the actual figures for Assets-A and B. We have



considered the submissions of the Petitioner and have perused the record. We are of the view that entire delay be condoned for Assets-A and Asset-B. Additionally, since the IDC and IEDC, as confirmed by the Auditor's Certificate, are lower than the amounts projected in the IA, the IDC and IEDC are approved as claimed by the Petitioner.

Initial Spares

50. The Petitioner has claimed the following Initial Spares for the transmission assets:

(₹ in lakh)						
Asset	Particulars	Plant and Machinery Cost (A)	Initial Spares claimed (B)	Limit (C) in %	Ceiling amount as per Regulations (D=(A-B)*C/(100-C))	Excess Initial Spares (E=B-D)
A	Brownfield Sub-station	879.46	60.13	6.0	52.30	7.83
B	Brownfield Sub-station (GIS)	808.62	53.37	7.0	56.85	-3.48

51. Regulation 23(d) of the 2019 Tariff Regulations provides that Initial Spares shall be capitalized as a percentage of the 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) GIS Insulated Sub-station

- (Green Field): 5.00%

- (Brown Field): 7.00%

(v) Communication System: 3.50%

(vi) Static Synchronous Compensator: 6.00%”

52. Initial Spares for the transmission assets as claimed by the Petitioner are as follows:



(₹ in lakh)

Asset	Particulars	Plant and Machinery Cost (excluding IDC/IEDC, Land cost and cost of civil works) (A)	Initial spares As claimed (B)	Ceiling % as per regulation (C)	Ceiling amount as per the regulation (D=(A-B)*C/(100-C))	Excess spares (E=B-D)
A	Brownfield SS	879.46	60.13	6.00%	52.30	7.83
B	Brownfield SS (GIS)	808.62	53.37	7.00%	56.85	-3.48

53. MPPMCL has submitted that the cost of Initial Spares claimed by the Petitioner amounts to 6.83% of the total cost for Asset-A, which exceeds the ceiling set by the Regulations. Therefore, this cost will be limited to the amount specified in the Regulations, following a prudence check of the admissible completion cost.

54. MSEDCL has submitted that the Petitioner's claim of 6.83% for Initial Spares exceeds the permissible limit of 6%, and as a result, the claim should be rejected.

55. In response, the Petitioner has submitted that the Initial Spares represent a spillover, with a slightly increased percentage of the plant and machinery, resulting in an additional cost of ₹7.83 lakh. This cost is attributed to the fact that the spares are supplied as part of a complete assembly for replacement in a specific design of the main item. The letter and spirit of the Act mandate that tariff determinations should be based on commercial principles and should accurately reflect the costs incurred by the utility. Furthermore, the current scheme involves extension work at an existing substation, which is less expensive compared to constructing a new substation. Therefore, matching the cost to an exact percentage of the plant and machinery is generally unfeasible. In light of this, the Petitioner has requested approval for the increased percentage of Initial Spares, referring to the provision of 'Power to Relax' under Regulation 76 of the 2019 Tariff Regulations, to ensure the smooth functioning and operation of the system.



56. We have considered the submissions of the Petitioner, MPPMCL, and MSEDCL, and have also perused the record carefully. On perusal of the record, we find that the Initial Spares claimed by the Petitioner exceed the limit as specified in the 2019 Tariff Regulations by ₹7.83 lakh for Asset-A. The Petitioner has submitted that the increase in cost is due to the fact that the spares are supplied as part of a complete assembly for replacement in a specific design of the main item, and as such, the Commission should exercise 'Power to Relax' the norms and allow the entire incurred cost of the Initial Spares.

57. With respect to the exercise of 'Power to Relax', the APTEL in its judgment dated 25.3.2011 in Appeal No. 130 of 2009 in the matter of Ratnagiri Gas and Power Private Ltd. vs. CERC & Ors. observed the following :

"10.7. The above Regulations and the decision give the judicial discretion to the Central Commission to relax norms based on the circumstances of the case. However, such a case has to be one of those exceptions to the general rule. There has to be sufficient reason to justify relaxation. It has to be exercised only in exceptional case and where non-exercise of the discretion would cause hardship and injustice to a party or would lead to unjust result. In the case of relaxation of the Regulations the reasons have to be recorded in writing. Further, it has to be established by the party that the circumstances are not created due to act of omission or commission attributable to the party claiming the relaxation".

58. In terms of the APTEL's judgment dated 25.3.2011 (supra), the Central Commission is vested with the juridical discretion to relax norms based on the circumstances of the case, and such a case has to be one of those exceptions to the general rule. The APTEL further observes in the said judgment that non-exercise of discretion would cause hardship and injustice to a party or would lead to unjust results, and such reasons must be recorded in writing.

59. In the facts and circumstances of the present case, the petitioner has not placed any document to substantiate that due to specific design the petitioner has incurred additional cost towards plant and machinery. The petitioner has submitted that less cost in comparison with the construction of a new substation, we are of the view that the ceiling limit is 4% for Green filed



substation where as 6% for brown field substation. As compared with green field substation, the norms for brown field substation is increased by 2%, therefore we are not agreeing with the submission of the petitioner that due to less cost of existing substation the petitioner has incurred additional cost towards initial spares. we do not find it a fit case to exercise 'Power to Relax' the norms of Initial Spares with respect to Asset-A under Regulation 76 of the 2019 Tariff Regulations, which has been notified after following the due process. Hence, the Initial Spares in the case of Asset-A are restricted to the ceiling of 6% as per the 2019 Tariff Regulations. The Initial Spares of Asset-B are approved as claimed by the Petitioner since they are within the limits specified in the 2019 Tariff Regulations.

Capital Cost as on the COD

60. The capital cost allowed in respect of the transmission assets as on the COD (excluding the undischarged IDC as on the COD) is as follows:

(₹ in lakh)						
Asset	Capital Cost claimed as on COD	Less: IDC Disallowed	Less: IEDC Disallowed	Less: Initial Spares Disallowed	Less: Un-Discharged IDC	Capital Cost Approved as on COD
A	1046.94	0.00	0.00	7.83	26.64	1012.47
B	832.31	0.00	0.00	0.00	0.00	832.31

Additional Capital Expenditure (ACE)

61. The Petitioner, vide the Auditor's Certificate dated 20.5.2022, has claimed the projected ACE for FY 2021-22, FY 2023-24, and FY 2024-25, and the same is as follows:

(₹ in lakh)					
Asset	Additional Capitalization				Total ACE claimed
	2021-22	2022-23	2023-24	2024-25	
A	24.89	73.78	-	-	98.67
B	3.08	113.47	18.57	16.81	151.93

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



“24. Additional Capitalization

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

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

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

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

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

- a. Liabilities to meet award of arbitration or for compliance of the directions or order of any statutory authority, or order or decree of any court of law;*
- b. Change in law or compliance of any existing law;*
- c. Deferred works relating to ash pond or ash handling system in the original scope of work;*
- d. Liability for works executed prior to the cut-off date;*
- e. Force Majeure events;*
- f. Liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments; and g) Raising of ash dyke as a part of ash disposal system.*

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

- a. The useful life of the assets is not commensurate with the useful life of the project and such assets have been fully depreciated in accordance with the provisions of these regulations.*
- b. The replacement of the asset or equipment is necessary on account of change in law or Force Majeure conditions;*
- c. The replacement of such asset or equipment is necessary on account of obsolescence of technology; and*
- d. The replacement of such asset or equipment has otherwise been allowed by the Commission.”*

63. The Petitioner has submitted that the ACE incurred/projected to be incurred for the transmission assets is mainly on account of the balance/retention payments, hence the same



may be allowed by the Commission under Regulations 24(1)(a) and 24(1)(b) of the 2019 Tariff Regulations. The Petitioner has submitted the details of the underlying reasons for the additional capitalization of the transmission assets in Form 7.

64. MPPMCL has submitted that the Petitioner has claimed the ACE under Regulation 24(1) of the 2019 Tariff Regulations [wrongly recorded as 14(1)] towards the balance/retention payment only without providing proper details or justifications. Therefore, the Petitioner's claims may only be allowed while carrying out a true-up based on actuals. MSEDCL has prayed the Commission to look into the ACE and added actual figures at the time of true-up.

65. *Per contra*, the Petitioner has submitted that the element-wise details of the ACE claimed under the instant Petition have already been submitted vide Forms-5 and 7 along with the Petition. The ACE incurred for the transmission assets is on account of any undischarged liability towards final payment/withheld payment due to the contractual exigencies for works executed within the cut-off date under Regulations 24(1)(a) and 24(1)(b) of the 2019 Tariff Regulations.

66. We have considered the submissions of the Petitioner, MPPMCL, and MSEDCL. The CODs of Assets A and B are approved as 5.7.2021 and 4.1.2022, respectively. Accordingly, the cut-off date of Assets A and B works out to be 4.7.2024 and 3.1.2025, respectively. Therefore, the ACE claimed by the Petitioner is within the cut-off date. The ACE claimed by the Petitioner in the case of the transmission assets is towards the undischarged liability within the cut-off date is allowed under Regulation 24(1)(a) of the 2019 Tariff Regulations, and unexecuted work within the cut-off date is allowed under Regulation 24(1)(b) of the 2019 Tariff Regulations. The ACE allowed in respect of the transmission assets for the 2019-24 tariff period is as follows:



(₹ in lakh)

Asset	As on COD	ACE Allowed			Total
		2021-22	2022-23	2023-24	
Asset-A	1012.47	45.46*	79.85*	0.00	1137.78
Asset-B	832.31	3.08	113.47	18.57	967.43

*Undischarged IDC discharged during FY 2021-22 and FY 2022-23 have been added in the FY 2021-22 and FY 2022-23.

67. The Petitioner has projected an ACE of ₹16.81 lakh in the case of Asset-B for FY 2024-25, and the same will be dealt with as per the 2024 Tariff Regulations.

68. The Petitioner is directed to submit the revised tariff forms, including the revised capital cost, ACE, IEDC and cash IDC statements along with the Auditor's Certificate considering the modified SCOD and COD of the transmission assets, at the time of truing-up.

Debt-Equity Ratio

69. 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.”

70. The debt-equity ratio of the transmission assets has been computed based on the capital cost and ACE, as approved by the Commission, as per Regulation 18 of the 2019 Tariff Regulations and the same is as follows:

Asset-A

(₹ in lakh)						
Particulars	Capital Cost as on COD (₹ in lakh)	%	ACE during 2019-24 (₹ in lakh)	%	Capital Cost as on 31.3.2024 (₹ in lakh)	%
Debt	708.73	70.00	87.72	70.00	796.45	70.00
Equity	303.74	30.00	37.59	30.00	341.33	30.00
Total	1012.47	100.00	125.31	100.00	1137.78	100.00

Asset-B

(₹ in lakh)						
Particulars	Capital Cost as on COD (₹ in lakh)	%	ACE during 2019-24 (₹ in lakh)	%	Capital Cost as on 31.3.2024 (₹ in lakh)	%
Debt	582.62	70.00	94.58	70.00	677.20	70.00
Equity	249.69	30.00	40.54	30.00	290.23	30.00
Total	832.31	100.00	135.12	100.00	967.43	100.00

Depreciation

71. 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 Asset-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 asset

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.”

72. The depreciation has been worked out considering the admitted capital expenditure as on the COD and thereafter up to 31.03.2024. The Weighted Average Rate of Depreciation (WAROD) placed as ‘Annexure’ to this order, has been worked out for the transmission assets as per the rates of depreciation specified in the 2019 Tariff Regulations. The depreciation allowed for the transmission assets is as follows:

(₹ in lakh)

Asset-A				
	Particulars	2021-22 (Pro-rata for 270 days)	2022-23	2023-24
A	Opening Gross Block	1012.47	1057.93	1137.78
B	Addition during the year 2019-24 due to projected ACE	45.46	79.85	0.00
C	Closing Gross Block (A+B)	1057.93	1137.78	1137.78
D	Average Gross Block (A+C)/2	1035.20	1097.85	1137.78
E	Average Gross Block (90% depreciable assets)	1029.97	1091.85	1131.17
F	Average Gross Block (100% depreciable assets)	5.23	6.01	6.61
G	Depreciable value (excluding IT equipment and software) (E*90%)	926.97	982.66	1018.05
H	Depreciable value of IT equipment and software (F*100%)	5.23	6.01	6.61
	Total Depreciable Value (G+H)	932.20	988.67	1024.66
J	Weighted average rate of Depreciation (WAROD) (In %)	5.46	5.45	5.44
K	Lapsed useful life at the beginning of the year (Year)	0	0	1
L	Balance useful life at the beginning of the year (Year)	23	23	22
M	Depreciation during the year (D*J)	41.85	59.79	61.86
N	Cumulative Depreciation at the end of the year	41.85	101.63	163.49
O	Remaining Aggregate Depreciable Value at the end of the year	890.36	887.04	861.17



(₹ in lakh)

Asset-B			
Particulars	2021-22 (Pro-rata for 87 days)	2022-23	2023-24
Opening Gross Block	832.31	835.39	948.86
Addition during the year 2019-24 due to projected ACE	3.08	113.47	18.57
Closing Gross Block (A+B)	835.39	948.86	967.43
Average Gross Block (A+C)/2	833.85	892.13	958.15
Average Gross Block (90% depreciable assets)	833.85	892.13	958.15
Average Gross Block (100% depreciable assets)	0.00	0.00	0.00
Depreciable value (excluding IT equipment and software) (E*90%)	750.47	802.91	862.33
Depreciable value of IT equipment and software (F*100%)	0.00	0.00	0.00
Total Depreciable Value (G+H)	750.47	802.91	862.33
Weighted average rate of Depreciation (WAROD) (In %)	5.28	5.27	5.24
Lapsed useful life at the beginning of the year (Year)	0	0	1
Balance useful life at the beginning of the year (Year)	25	25	24
Depreciation during the year (D*J)	10.49	47.00	50.24
Cumulative Depreciation at the end of the year	10.49	57.50	107.74
Remaining Aggregate Depreciable Value at the end of the year	739.97	745.41	754.60

Interest on Loan (IoL)

73. 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 decapitalization of asset, 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 decapitalisation 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”.

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

(₹ in lakh)

Asset-A				
	Particulars	2021-22 (Pro-rata for 270 days)	2022-23	2023-24
A	Gross Normative Loan	708.73	740.55	796.44
B	Cumulative Repayments up to Previous Year	0.00	41.85	101.63
C	Net Loan-Opening (A-B)	708.73	698.70	694.81
D	Addition due to ACE	31.82	55.90	0.00
E	Repayment during the year	41.85	59.79	61.86
F	Net Loan-Closing (C+D-E)	698.70	694.81	632.96
G	Average Loan (C+F)/2	703.72	696.76	663.88
H	Weighted Average Rate of Interest on Loan (In %)	6.69	6.68	6.67
I	Interest on Loan (G*H)	34.80	46.51	44.31

(₹ in lakh)

Asset-B				
	Particulars	2021-22 (Pro-rata for 87 days)	2022-23	2023-24
A	Gross Normative Loan	582.62	584.77	664.20
B	Cumulative Repayments up to Previous Year	0.00	10.49	57.50
C	Net Loan-Opening (A-B)	582.62	574.28	606.70
D	Addition due to ACE	2.16	79.43	13.00



Asset-B				
	Particulars	2021-22 (Pro-rata for 87 days)	2022-23	2023-24
E	Repayment during the year	10.49	47.00	50.24
F	Net Loan-Closing (C+D-E)	574.28	606.70	569.47
G	Average Loan (C+F)/2	578.45	590.49	588.09
H	Weighted Average Rate of Interest on Loan (In %)	5.98	5.98	5.98
I	Interest on Loan (G*H)	8.25	35.32	35.18

Return on Equity (RoE)

75. 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 due to Change in Law, 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 Rs 1,000 crore;

(b) Estimated Advance Tax for the year on above is Rs 240 crore;

(c) Effective Tax Rate for the year 2019-20 = Rs 240 Crore / Rs 1000 Crore = 24%;

(d) Rate of return on equity = $15.50 / (1 - 0.24) = 20.395\%$.

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

76. The Petitioner has submitted that the MAT rate is applicable to it. Accordingly, the MAT rate applicable in the year 2019-20 has been considered for the purpose of RoE, subject to the truing-up in accordance with Regulation 31(3) of the 2019 Tariff Regulations. The RoE allowed in respect of the transmission assets is as follows:



(₹ in lakh)

Asset-A				
	Particulars	2021-22 (Pro-rata for 270 days)	2022-23	2023-24
A	Opening Equity	303.74	317.38	341.33
B	Addition due to ACE	13.64	23.96	0.00
C	Closing Equity (A+B)	317.38	341.33	341.33
D	Average Equity (A+C)/2	310.56	329.36	341.33
E	Return on Equity (Base Rate) (in %)	15.50	15.50	15.50
F	Tax Rate applicable (in %)	17.472	17.472	17.472
G	Rate of Return on Equity (Pre-tax) (in %)	18.782	18.782	18.782
H	Return on Equity (Pre-tax) (D*G)	43.15	61.86	64.11

(₹ in lakh)

Asset-B				
	Particulars	2021-22 (Pro-rata for 87 days)	2022-23	2023-24
A	Opening Equity	249.69	250.62	284.66
B	Addition due to ACE	0.92	34.04	5.57
C	Closing Equity (A+B)	250.62	284.66	290.23
D	Average Equity (A+C)/2	250.16	267.64	287.44
E	Return on Equity (Base Rate) (in %)	15.50	15.50	15.50
F	Tax Rate applicable (in %)	17.472	17.472	17.472
G	Rate of Return on Equity (Pre-tax) (in %)	18.782	18.782	18.782
H	Return on Equity (Pre-tax) (D*G)	11.20	50.27	53.99

Operation & Maintenance Expenses (O&M Expenses)

77. The O&M Expenses as claimed by the Petitioner for Asset-A are as follows:

(₹ in lakh)

Asset-A			
Particulars	2021-22 (Pro-rata for 270 days)	2022-23	2023-24
Sub-station Bays			
400 kV Bays at Mapusa	2	2	2
Norms			
400 kV	34.45	35.66	36.91
Total Sub-station Bays	50.97	71.32	73.82

78. The Petitioner has not claimed any O&M Expenses for Asset-B.

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

“35(3) Transmission system: (a) The following normative operation and maintenance expenses shall be admissible for the combined 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	0.26	0.27	0.279	0.289
Double Circuit (Bundled conductor with four or more sub-conductors)	1.322	1.368	1.416	1.466	1.517
Double Circuit (Twin & Triple Conductor)	0.881	0.912	0.944	0.977	1.011
Double Circuit (Single Conductor)	0.377	0.391	0.404	0.419	0.433
Multi Circuit (Bundled Conductor with four or more sub-conductor)	2.319	2.401	2.485	2.572	2.662
Multi Circuit (Twin & Triple Conductor)	1.544	1.598	1.654	1.713	1.773
Norms for HVDC stations					
HVDC Back-to-Back stations (Rs Lakh per 500 MW) (Except Gazuwaka BTB)	834	864	894	925	958
Gazuwaka HVDC Back-to-Back station (₹ Lakh per 500 MW)	1,666	1,725	1,785	1,848	1,913
500 kV Rihand-Dadri HVDC bipole scheme (Rs Lakh) (1500 MW)	2,252	2,331	2,413	2,498	2,586
±500 kV Talcher- Kolar HVDC bipole scheme (Rs Lakh) (2000 MW)	2,468	2,555	2,645	2,738	2,834
±500 kV Bhiwadi-Balia HVDC bipole scheme (Rs Lakh) (2500 MW)	1,696	1,756	1,817	1,881	1,947
±800 kV, Bishwanath-Agra HVDC bipole scheme (Rs Lakh) (3000 MW)	2,563	2,653	2,746	2,842	2,942

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

Provided further that:



- i. the operation and maintenance expenses for new HVDC bi-pole schemes commissioned after 1.4.2019 for a particular year shall be allowed pro-rata on the basis of normative rate of operation and maintenance expenses of similar HVDC bi-pole scheme for the corresponding year of the tariff period;
- ii. the O&M expenses norms for HVDC bi-pole line shall be considered as Double Circuit quad AC line;
- iii. the O&M expenses of ± 500 kV Mundra-Mohindergarh HVDC bipole scheme (2000 MW) shall be allowed as worked out by multiplying 0.80 of the normative O&M expenses for ± 500 kV Talchar-Kolar HVDC bi-pole scheme (2000 MW);
- iv. the O&M expenses of ± 800 kV Champa-Kurukshetra HVDC bi-pole scheme (3000 MW) shall be on the basis of the normative O&M expenses for ± 800 kV, Bishwanath-Agra HVDC bi-pole scheme;
- v. the O&M expenses of ± 800 kV, Alipurduar-Agra HVDC bi-pole scheme (3000 MW) shall be allowed as worked out by multiplying 0.80 of the normative O&M expenses for ± 800 kV, Bishwanath-Agra HVDC bi-pole scheme; and
- vi. the O&M expenses of Static Synchronous Compensator and Static Var Compensator shall be worked at 1.5% of original project cost as on commercial operation which shall be escalated at the rate of 3.51% to work out the O&M expenses during the tariff period. The O&M expenses of Static Synchronous Compensator and Static Var Compensator, if required, may be reviewed after three years

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

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

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

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

80. We have considered the Petitioner's submissions. The O&M Expenses have been worked out as per the norms specified in the 2019 Tariff Regulations. The O&M Expenses allowed for Asset-A are as follows:

(₹ in lakh)			
O&M Expenses	2021-22	2022-23	2023-24
Asset-A	50.97*	71.32	73.82
Asset-B	0.00	0.00	0.00

* Prorata for 270 days



Interest on Working Capital (IWC)

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

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

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

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

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

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

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

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

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

“3. 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;”*

82. The Petitioner has submitted that it has computed IWC for the 2019-24 tariff period, considering the SBI Base Rate plus 350 basis points as on the COD of the transmission assets. The Petitioner has considered the rate of IWC as 10.50%.

83. 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 1.4.2021 and 1.4.2022 of 7.00% plus 350 basis points) for FY 2021-22 and FY 2022-23 and 12.00% (SBI 1-year MCLR applicable as on 1.4.2023 of 8.50% plus 350 basis points) for FY 2023-24.

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



(₹ in lakh)

Asset-A				
	Particulars	2021-22 (Pro-rata for 270 days)	2022-23	2023-24
A	Working Capital for O&M Expenses (O&M Expenses for one month)	5.74	5.94	6.15
B	Working Capital for Maintenance Spares (15% of O&M Expenses)	10.34	10.70	11.07
C	Working Capital for Receivables (Equivalent to 45 days of annual fixed cost /annual transmission charges)	29.04	30.13	30.72
D	Total Working Capital (A+B+C)	45.12	46.77	47.94
E	Rate of Interest (in %)	10.50	10.50	12.00
F	Interest on Working Capital (D * E)	3.50	4.91	5.75

(₹ in lakh)

Asset-B				
	Particulars	2021-22 (Pro-rata for 87 days)	2022-23	2023-24
	Working Capital for O&M Expenses (O&M Expenses for one month)	0.00	0.00	0.00
	Working Capital for Maintenance Spares (15% of O&M Expenses)	0.00	0.00	0.00
	Working Capital for Receivables (Equivalent to 45 days of annual fixed cost /annual transmission charges)	15.69	16.56	17.40
	Total Working Capital (A+B+C)	15.69	16.56	17.40
	Rate of Interest (in %)	10.50	10.50	12.00
	Interest on Working Capital (D * E)	0.39	1.74	2.09

Annual Fixed Charges for the 2019-24 Tariff Period

85. The annual transmission charges allowed after the approval of the COD of the transmission assets for the 2019-24 tariff period are as follows:

(₹ in lakh)

Asset-A				
	Particulars	2021-22 (Pro-rata for 270 days)	2022-23	2023-24
	Depreciation	41.85	59.79	61.86
	Interest on Loan	34.80	46.51	44.31
	Return on Equity	43.15	61.86	64.11
	O&M Expenses	50.97	71.32	73.82
	Interest on Working Capital	3.50	4.91	5.75
	Total	174.26	244.39	249.84



(₹ in lakh)

Asset-B			
Particulars	2021-22 (Pro-rata for 87 days)	2022-23	2023-24
Depreciation	10.49	47.00	50.24
Interest on Loan	8.25	35.32	35.18
Return on Equity	11.20	50.27	53.99
O&M Expenses	0.00	0.00	0.00
Interest on Working Capital	0.39	1.74	2.09
Total	30.33	134.33	141.49

Filing Fee and Publication Expenses

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

Licence Fee and RLDC Fees and Charges

87. The Petitioner has sought 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 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 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

88. The Petitioner has submitted that the transmission charges claimed herein exclude GST. In case GST is levied in the future, the Respondents will pay it, and the Petitioner will charge and bill it separately. The Petitioner also prayed that additional taxes, if any, would be paid by



the Petitioner on account of the demand from the Government or statutory authorities, and the Commission may allow the same to be recovered from the beneficiaries.

89. MPPMCL has submitted that GST is not applicable to the electricity sector, and for this reason, the Petitioner's demand for GST should be disallowed.

90. MSEDCL has further submitted that GST is not applicable to the transmission charges and the Petitioner's prayer in this regard is premature, and hence, the same may not be allowed.

91. We have considered the submissions of the Petitioner, MPPMCL and MSEDCL. Since GST is not levied on transmission service at present, we are of the view that the Petitioner's prayer in this regard is premature.

Security Expenses

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

93. We have considered the Petitioner's submissions. The Petitioner has claimed consolidated security expenses for all the transmission assets owned by it on a projected basis for the 2019-24 tariff period on the basis of actual security expenses incurred in FY 2018-19 in Petition No. 260/MP/2020. The Commission, vide its order dated 3.8.2021 in Petition No. 260/MP/2020, has 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 overall security expenses and consequential IWC has become infructuous.



Capital Spares

94. 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

95. The Petitioner has submitted that the transmission charges in respect of the transmission assets for the 2019-24 tariff period will be shared in accordance with Regulation 57 of the 2019 Tariff Regulations and will be shared by the beneficiaries and long term transmission customers as per the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses), Regulations, 2020 (hereinafter referred to as "the 2020 Sharing Regulations") read with its subsequent amendments.

96. MPPMCL and MSEDCL have submitted that the Petitioner has claimed CODs of its transmission assets, stating that the associated transmission system to be constructed by GTTPL, under TBCB, was expected to be delayed from the scheduled date of commissioning. Therefore, the transmission assets could not be put into regular use. In view of this, GTTPL should bear the transmission charges until the commissioning of the associated transmission system for Assets A and B; thereafter, they will be shared under the PoC mechanism.

97. The Petitioner has submitted that the associated transmission Line Xeldem - Mapusa 400 kV D/C Quad and Narendra (existing) - Narendra (New) 400 kV D/C quad line at Xeldem, being implemented by GTTPL, under TBCB, was delayed from the scheduled date of commissioning. The Petitioner, therefore, could not provide service for reasons not attributable to it, its suppliers or contractors from the claimed commercial operation date. The Petitioner has submitted that its case accordingly qualifies for consideration by the Commission for approval of



the date of commercial operation prior to the element coming into regular service. The Petitioner has further submitted the chronology of the communication and intimation given to GTTPL.

98. GTTPL vide its affidavit dated 29.10.2023 and written submissions dated 16.1.2024 has made the following submissions:

A. No liability can be imposed for the delay caused by to outbreak of the COVID-19 pandemic

- (i) In light of the orders from the MoP, the Petitioner has submitted a revised SCOD for its Assets A and B as of 5.7.2021 and 4.1.2022, respectively. The Commission cannot extend the SCODs to the Petitioner due to the COVID-19 pandemic without extending the same consideration to GTTPL. Both GTTPL and the Petitioner experienced an equal impact on their transmission assets due to the pandemic. Therefore, the Commission cannot provide the Petitioner with the benefit of this Force Majeure event while penalising GTTPL for the same circumstances. In light of the MoP orders dated 27.7.2020 and 12.6.2021, the SCODs for all elements of the GTTPL assets stand extended by eight months. Therefore, GTTPL cannot be held liable for any liability for the mismatch period occurring before the revised SCOD. Holding GTTPL responsible for any issues prior to the revised SCOD would contradict the Commission's own binding regulations. The extension of the SCODs mentioned above is solely due to the outbreak of the COVID-19 pandemic and may be further extended in light of other Force Majeure events.
- (ii) However, the Commission, through its various orders-including the order dated 18.5.2023 in Petition No. 334/TT/2022 and the order dated 15.2.2023 in Petition No. 301/TT/2022—has given effect to the MoP's directives and has extended the SCOD of the Petitioner's assets.

B. The Petitioner is not entitled to the proposed COD

- (i) The Petitioner has not complied with the requirements of Regulation 5(2) of the 2019 Tariff Regulations, as it failed to provide adequate notice of at least one month to GTTPL regarding the commissioning of its transmission assets.
- (iii) The Petitioner's claim of commissioning its Assets-A on 5.7.2021 and Asset B on 4.1.2022 is incorrect and denied, as it is in violation of, and contrary to, Regulation 5(2) and Regulation 6(2) of the 2019 Tariff Regulation. Furthermore, it is not in line with GTTPL's TSA and is contrary to various orders of the Commission issued from time to time. Deemed COD, as claimed by the Petitioner, cannot be accepted and approved by this Commission as the same is in contravention of the provisions of Regulation 6 of the 2019 Tariff Regulations. Consequently, no transmission charges can be allowed for recovery before the revised SCOD of GTTPL assets on account of any alleged mismatch in the commissioning of the Petitioner's assets and GTTPL assets (Narendra- Narendra (New) "NN Line" and Xeldem- Mapusa "XM Line") as per Regulation 6(2) of the 2019 Tariff Regulations.
- (iv) Accordingly, no liability can be imposed on GTTPL for payment of the transmission charges before 14.7.2022. Any such imposition will be contrary to the express stipulation under Regulation 6(2) of the 2019 Tariff Regulations.

C. Delay in commissioning of the GTTPL assets beyond its revised SCOD covered by the force majeure events claimed by GTTPL.

- (i) The commissioning of the NN Line and the XM Line was delayed due to force majeure events, which were uncontrollable and not attributable to GTTPL. GTTPL has filed a Petition before the Commission seeking an extension of the SCOD, which is pending adjudication.



- (ii) The APTEL, in the NRSS XXXI (B) Transmission Limited v. Central Electricity Regulatory Commission & Ors. (NRSS Judgment), made it clear beyond doubt that when a transmission licensee is affected by Force Majeure events, such a licensee cannot be made liable to pay any charges to an interconnecting entity that has incidentally been delayed. APTEL, in its judgment, observed that any direction to the licensee, who was impacted by uncontrollable events, to pay IDC and IEDC to the incidentally delayed entity will be contradictory to the relief granted to the delayed entity and the extension of the COD granted to it.

D. The TSA casts a responsibility on the LTTCs to perform their substantive obligations

- (i) When the TSA clearly assigns the responsibility to a party to perform certain obligations, such obligations are required to be performed by that party in the manner prescribed under the TSA.
- (ii) Article 6.1.2 of the TSA casts a responsibility upon the Lead LTTC to coordinate with the Petitioner for arranging the associated interconnection facilities matching the commissioning of GTTPL assets. As per the terms of the TSA, the LTTCs are mandated to arrange the interconnection facilities.
- (iii) Article 4.3, read with Article 5.1 of the TSA, provides that the LTTCs should monitor and coordinate the development of interconnection facilities associated with the GTTPL assets within a matching timeframe. In this regard, the provisions of the TSA mandate GTTPL to provide the Monthly Progress Reports (MPRs) to LTTCs and CEA, capturing various details on the month-by-month progress of the GTTPL assets along with their SCOD and anticipated COD. GTTPL has provided copies of its MPRs, which are also published by CEA in its MPRs on TBCB ISTS assets. The MPRs



provided a clear, unambiguous, and detailed report on the status of the GTTPL assets along with various Force Majeure events and Change in Law issues faced during the implementation of the NN Line and XM Line.

- (iv) LTTCs have signed a Model Transmission Service Agreement (MTSA) with the Petitioner for implementing transmission projects under the Regulated Tariff Mechanism (RTM) and, therefore, have an existing contractual relationship with the Petitioner.

E. The Commission cannot saddle GTTPL with liability under the provisions of the 2020 Sharing Regulations

- (i) In the present case, the 2020 Sharing Regulations cannot be made applicable between a line and an interconnecting facility forming part of one and the same transmission system, as the aforesaid regulations clearly contemplate a mismatch between two separate transmission systems for the applicability of the 2020 Sharing Regulations.
- (ii) The NN Line, XM Line, and the Petitioner's transmission assets consist of a single transmission system. In accordance with the 2019 Tariff Regulations and the Indian Electricity Grid Code Regulations, 2010 (2010 IEGC Regulations), it is clear that only a mismatch between two separate transmission systems can be billed bilaterally. Therefore, this Commission cannot apply the 2019 Tariff Regulations to saddle GTTPL with bilateral liability for the period of the purported mismatch due to delay.

F. GTTPL is not liable to pay transmission charges, as no contractual relationship between the two parties

- (i) No liability can be imposed on the GTTPL as there is no relationship whatsoever between the GTTPL and the Petitioner, either statutory, contractual or regulatory,



based on which GTTPL can be made bilaterally liable to the Petitioner for payment of transmission charges.

- (ii) The APTEL, in its recent order dated 15.9.2022 in Appeal No. 109 of 2021, Punjab State Transmission Corporation Ltd. vs. CERC & Ors., observed that in the absence of a formal contract between interconnecting entities, no liability for payment of the transmission charges can be imposed on the delaying entity in the case of a mismatch in commissioning.

G. The proposed liability on GTTPL is contrary to the object and purpose of the Act and the provisions of the TSA.

- (i) The Commission cannot import a liability that is outside the purview and ambit of the agreement under which GTTPL is executing its assets. The Commission cannot tinker with the agreed-upon terms of the contract and the tariff decided pursuant to a bidding process conducted under the TBCB Guidelines under Section 63 of the Act.
- (ii) Regulation 13(12) of the 2020 Sharing Regulations makes the defaulting party liable to pay the transmission charges. However, in the present case, GTTPL did not default. Therefore, invoking Regulation 13(12) of the 2020 Sharing Regulations is totally misconceived.

H. No liability to pay transmission charges in terms of Notification of the MoP dated 15.1.2021

- (i) MoP had issued a direction under Section 107 of the Act vide letter No. 23/12/2016-R&R dated 15.1.2021, *inter alia*, holding that in cases where there is a mismatch of the COD, the bilateral liability ought not to be imposed on an individual licensee.



- (ii) As there is no contract or direct relationship between the defaulting party and the aggrieved, it is not proper to require a third entity, which is not a party to a contract, to compensate either party to a contract. The clauses in the 2019 Tariff Regulations are improper as the penalties are uncapped, which could lead to inflated bids. In the case of projects executed under the TBCB Guidelines, the defaulting licensee is already required to pay liquidated damages as per the TSA, and the additional amount is not specified therein.
- (iii) The directions issued by the MoP under Section 107 of the Act are binding on this Commission. The bidding process for the GTTPL assets was completely governed by the TBCB Guidelines issued by the Central Government. Therefore, the aforesaid notification can be considered a 'clarification' on the TBCB Guidelines, thereby possessing the force of law and not merely a request to be implemented in the future.

I. Regulatory treatment of the force majeure events affecting GTTPL

- (i) There is a material difference between the position of a transmission licensee implementing a project under the TBCB regime and a transmission licensee operating under the RTM regime when affected by a mismatch situation. Under the RTM regime, which is the Petitioner's case, it is open to a transmission licensee to claim compensation for financial losses incurred due to uncontrollable parameters such as Force Majeure events through an increase in the tariff payable to it by its DICs. Such financial losses include any loss in transmission charges incurred due to a delay caused by Force Majeure events impacting an inter-connecting transmission licensee. However, the same option is not available to a TBCB transmission licensee, such as the GTTPL.

- (ii) Force Majeure events, being a finding of fact, are equally applicable to the Petitioner as they are to GTTPL. Therefore, any purported delay in putting the Petitioner's assets to use due to Force Majeure events affecting GTTPL should be treated as Force Majeure events affecting the Petitioner. Pertinently, the Petitioner's assets have also been delayed due to the outbreak of the COVID-19 pandemic. Accordingly, any mismatch in COD due to Force Majeure events ought to be treated as such for the Petitioner under the 2019 Tariff Regulations.

J. No liability can be imposed on GTTPL without any finding on the force majeure events affecting the construction of the NN line and XM line.

- (i) The APTEL, vide its judgment dated 3.12.2021 in Appeal Nos. 129 of 2020 and 276 of 2021, in the matter of NRSS XXXI (B) Transmission Limited v. Central Electricity Regulatory Commission & Ors. (NRSS Judgment) has settled the law that when a transmission licensee is affected by Force Majeure events, such licensee cannot be held liable to pay any charges to an inter-connecting entity which incidentally got delayed.
- (ii). The ratio decidendi of the NRSS Judgment applies to transmission licensees implementing projects under the TBCB Guidelines under Section 63 of the Electricity Act, 2003, and, therefore, to the GTTPL's case.

K. Levy of transmission charges for the purported mismatch period amounts to a change in law event for GTTPL: Imposition of liability on GTTPL would amount to a Change in Law event under Article 12 of the TSA and would indirectly amount to imposing liability on beneficiaries of ISTS.



L. Notwithstanding the above, the YTC for the alleged mismatch period are payable as per the 2nd amendment of the 2020 Sharing Regulations

- (i) Regulation 13(12) of the 2020 Sharing Regulations (2nd Amendment) provides that the Yearly Transmission Charges (YTC) for the inter-State transmission system or an element for which the deemed COD has been approved or declared shall be paid 50% of the YTC of its inter-State transmission system for a period of 6 months from the date of deemed COD or till the commencement of the actual power flow. Further, in case an inter-State transmission licensee is responsible for the delay in the commencement of power from the inter-State transmission system of another inter-State transmission licensee which has achieved deemed COD, the inter-State transmission licensee of the delayed inter-State Transmission System shall pay 50% of YTC of its transmission system or 50% of the YTC of the transmission system which has achieved deemed COD, whichever is lower, till its delayed inter-State transmission system achieves COD.
- (ii) The YTC, if any, shall be payable to the Petitioner only as per the 2nd Amendment to Regulation 13(12) of the 2020 Sharing Regulations.

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

A. The Commission cannot saddle GTTPL with liability under the provisions of the 2020 Sharing Regulations; Proposed liability on GTTPL is contrary to the object and purpose of the Act and the provisions of the TSA

- (i) The Petitioner, as a transmission licensee, is required to be paid for the assets which are setting up. A tariff recovery is not akin to a claim for damages but goes towards servicing the capital cost invested by it in the construction of transmission assets. Under Sections 61, 62 and 64 of the Act, there is a provision for cost-plus tariff



determination, which means that all the reasonable costs and expenses incurred by the Petitioner, along with a reasonable Return on Equity ('RoE'), should be paid to it.

- (ii) In the instant case, the Petitioner's assets have achieved COD, whereas the transmission lines within the scope of GTTPL were not commissioned on the claimed COD of the Petitioner. Accordingly, the Petitioner's assets could not be utilized despite their commissioning due to delays in the completion of the scope of the GTTPL. As a result, it was unable to provide service for reasons not attributable to it. The 2019 Tariff Regulations recognize a situation where the assets of one licensee may be ready while the interconnecting system of the other licensee may not be ready. A licensee that comes in time is entitled to seek a declaration of deemed COD under Regulation 5 of the 2019 Tariff Regulations.
- (iii) The Commission has provided the regulatory framework regarding the mismatch in Regulation 13 (12) of the 2020 Sharing Regulations, effective from 1.11.2020. If the Petitioner's assets are ready but prevented from achieving Commercial Operation due to the default of either the interconnected transmission system of another transmission licensee or a generating station, it is entitled to seek the declaration of deemed COD under Regulation 5(2) of the 2019 Tariff Regulations.
- (iv) Once the deemed COD is recognized by the Commission, the Petitioner is entitled to recover its tariff from the transmission licensee that has delayed the interconnecting transmission assets. In the Regulations, provisions are made to protect the interests of the entity that made its assets ready on schedule and made a significant investment to complete the project.



- (v) The treatment of mismatch provided in Regulation 13 (12) of the 2020 Sharing Regulations can be between a generating company and a transmission licensee, or between two interconnected transmission licensees, and cannot be made subject to how either of these parties is recovering their own tariff for their respective assets.
- (vi) APTEL's Judgment dated 3.5.2023 in the matter of Fatehgarh Bhadla Transmission Company Limited v. Central Electricity Regulatory Commission & Ors recorded in 2023 SCC Online APTEL 16, [FBTL Judgment], observed the object sought to be achieved by the Central Commission in introducing these provisions of mismatch in the 2019 Tariff Regulations and the 2020 Sharing Regulations.

B. The impugned order fails to recognize any relationship between GTTPL and Petitioner, contractual or otherwise, and, therefore, no basis for imposing liability

- (i) The mismatch provisions were introduced in the 2019 Tariff Regulations and the 2020 Sharing Regulations to address the mismatch issue and compensate a transmission licensee whose asset was ready but could not be put to commercial use due to the unavailability of associated transmission assets/ generating units. Regulation 13 (12) of the 2020 Sharing Regulations, as interpreted by GTTPL, is hypertechnical and incorrect. GTTPL has made the submissions qua mismatch to wriggle out of the liability to pay.
- (ii) GTTPL had to implement the transmission lines in its scope, and the Petitioner had to implement bays and reactor (Assets- A and B) as per the scheme agreed in the RPC and SCM forums. GTTPL, therefore, at this stage, can neither contend that it was not aware of the timelines nor plead that there is no relation between GTTPL and the Petitioner. Further, a specific case for payment of transmission charges in the event of the mismatch has been envisaged under Regulation 5(2) of the 2019 Tariff



Regulations and 13(2) of the 2020 Sharing Regulations, and these are made under Section 178 of the Act. GTTPL relied on APTEL's order dated 15.6.2022 in Appeal No. 109/2021, Punjab State Transmission Corporation Ltd v CERC & Ors., to contend that in the absence of a formal contract, no liability for the payment of transmission charges can be imposed on the delaying entity in case of a mismatch in commissioning. The reliance on the said judgment is erroneous, misguided, and misplaced in the context of the facts and circumstances of the present case. The payment of transmission charges does not flow from the contract but from the Regulations. These Regulations are statutory in character and have the force of law; they would govern even in situations where there exists no contractual relationship between the regulated entities, as these regulations are binding on all of them, irrespective of whether or not they are parties to a contract. Consequently, even in the absence of a contract between GTTPL and the Petitioner, GTTPL would nonetheless be governed by these 2019 Tariff Regulations and the 2020 Sharing Regulations. Neither the 2020 Sharing Regulations nor the 2019 Tariff Regulations provide for contractual obligations as a prerequisite for the levy of mismatch liability. Furthermore, APTEL in the FBTL Judgment has held that no contractual obligation is required in the case of the imposition of liability for a mismatch.

C. No liability can be imposed due to Covid-19; Delay in commissioning of the GTTPL assets beyond its revised SCOD covered under force majeure events claimed by GTTPL, and regulatory treatment of the force majeure events affecting GTTPL

- (i) GTTPL cannot thrust its force majeure events on the Petitioner, as force majeure events are in the context of its TSA with its LTTCs. Further, the contention of GTTPL that no liability can be fastened on it until the adjudication of its force majeure events

is wrong and misplaced. The Petitioner, as a transmission licensee, is required to be paid for the asset that it is setting up. A tariff recovery is not similar to a claim for damage, but it goes towards servicing the capital cost invested by the Petitioner in constructing transmission assets. Under Sections 61, 62 and 64 of the Act, there is a provision for cost plus tariff determination, which means that all the reasonable costs and expenses incurred by the Petitioner, along with a reasonable RoE, should be paid to it.

- (ii) Extension of the SCOD by the MoP Notification and other force majeure events and their financial implications, if any, will be in the four corners of the TSA, i.e., contractual obligations between TSP and its LTTCs. The extension of the SCOD due to force majeure and the MoP circulars will not absolve GTTPL from payment of the transmission charges in terms of the 2020 Sharing Regulations.
- (iii) Reliance placed by GTTPL on APTEL's Judgment in NRSSXXXI-B Transmission Limited is erroneous. The said Judgment was passed under a different set of operating Regulations, namely the 2014 Tariff Regulations and the 2010 Sharing Regulations. The regulatory regime of the present Petition is the 2019 Tariff Regulations and the 2020 Sharing Regulations, which provide for treatment in cases of mismatch between the COD of two different transmission licensees. Furthermore, APTEL in its judgment dated 2.5.2022, passed in Appeal No. 352 of 2022 (FBTL Judgment), has held that a force majeure event does not absolve the payment of mismatch charges, as these were levied in terms of the 2019 Tariff Regulations and the 2020 Sharing Regulations.



- (iv) GTTPL's plea of force majeure is distinct from the independent right available to the Petitioner against the defaulting entity in the event of a mismatch as envisaged under the 2019 Tariff Regulations and the 2020 Sharing Regulations.
- (v) The Petitioner's associated Asset (Asset – A) to XM line was ready on 5.7.2021; as such, the COD was claimed under Regulation 5 (2) of the 2019 Tariff Regulations, that is, after the original SCOD of GTTPL's XM line on 13.5.2021.
- (vi) Similarly, the Petitioner's associated Asset (Asset – B) to NN line was ready on 4.1.2022; as such, the COD is claimed under Regulation 5 (2) of the 2019 Tariff Regulations, i.e., after the SCOD of GTTPL's NN line on 13.11.2021.
- (vii) GPPTL has made the above contentions to wriggle out of the liability for the payment of transmission charges, and these ought to be dismissed.

D. TSA casts a responsibility on the LTTCs to perform their substantive obligations

- (i) The Petitioner, as a transmission licensee, is not privy to the terms and conditions of the TSA between GTTPL and its LTTCs. Further, the rights and liabilities of GTTPL qua its LTTCs are governed under the provisions of the TSA, and GTTPL ought to raise issues against the LTTCs within the four corners of the TSA and not in tariff proceedings initiated by the Petitioner for its transmission assets.
- (ii) The Commission, while granting the transmission licence to GTTPL, directed it to coordinate with the licensee (including the deemed licensee) executing the upstream or downstream transmission projects and the Central Electricity Authority to ensure the execution of the project within a matching timeline. It is also the responsibility of GTTPL to implement the transmission line within a matching timeframe with the Petitioner's assets.

E. No liability to pay transmission charges in terms of the Notification of MoP dated 15.1.2021: GTTPL has placed reliance on the advisory dated 15.1.2021 issued by the Central Government to this Commission under Section 107 of the Act, to contest that no liability for mismatch can be imposed on GTTPL. The said contention is erroneous and is liable to be rejected for the reason that the said advice is not binding, as was held by this Commission in the order dated 16.11.2022 in Petition No. 116/TT/2017.

F. Petitioner is well within its rights to propose COD

- (i) The Petitioner has complied with the requirements of Regulation 5(2) of the 2019 Tariff Regulations. The Petitioner has constantly communicated with GTTPL regarding the commissioning of its transmission assets, the details of which have been provided in the Petition.
- (ii) In the case of Asset – A, the Petitioner, by way of letters and notices dated 29.1.2021, 16.3.2021, and 19.6.2021, intimated GTTPL under Regulation 5(2) of the 2019 Tariff Regulations. GTTPL was apprised of the status of the commissioning of the Petitioner's asset, as is apparent from the aforementioned correspondence. Therefore, the Commission may approve the proposed COD of Asset – A as 5.7.2021.
- (iii) The Petitioner notified GTTPL of Asset-B in letters dated 13.8.2021 and 29.12.2021 under Regulation 5(2) of the 2019 Tariff Regulations.
- (iv) The Commission, through the 2nd amendment to the 2019 Tariff Regulations, has deleted Regulation 6 with effect from 19.2.2021, and as such, reliance placed on Regulation 6 of the 2019 Tariff Regulations in cases where the SCOD and COD



claimed under Regulation 5(2) of the 2019 Tariff Regulations is erroneous is liable to be rejected.

- (v) GTTPL, vide its affidavit dated 30.7.2024, has submitted the details of subsequent Force Majeure events that led to further delays in the completion of its assets, to which the Petitioner, vide its affidavit dated 5.8.2024, has submitted that the submissions made by GTTPL are merely a reiteration of the submissions made and the stance previously taken by GTTPL and do not potentially impact the course of the proceedings.

100. MSEDCL, in its written submissions dated 15.1.2024, has submitted that the transmission assets were put to use for the beneficiaries, including MSEDCL, only after GTTPL commissioned its associated network. Since the transmission assets were not in regular service before the commissioning of the associated network of GTTPL, the levy of transmission charges for the period before the commissioning of the associated network under the guise of COD, to the detriment of the beneficiaries, including MSEDCL, would be contrary to the law as settled by the Hon'ble Supreme Court of India in the case of Power Grid Corporation of India Ltd. v. Punjab State Power Corporation Ltd. and Others, (2016) 4 SCC 797, wherein the three prerequisite conditions were laid down to levy the transmission charges, namely the line has been charged successfully; Its trial operation has been successfully carried out; and It is in regular service.

101. From the submissions of the parties, the following issues arise for our consideration on the issue of the sharing of transmission charges of the transmission assets:

Issue No. 1: Whether GTTPL is eligible for a waiver of transmission charges for the mismatch period due to the extension provided by the MoP and on account of Force Majeure?

Issue No. 2: Whether GTTPL is liable to pay the transmission charges for the mismatch, since there is no contractual obligation with the Petitioner?



Issue No.3: Whether GTTPL is right in stating that in the facts and circumstances of the present case, Yearly Transmission Charges, if any, payable shall be as per the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) (2nd Amendment) Regulations, 2023, after 1.11.2023?

Issue No. 4 : Whether GTTPL's claim that the 2019 Tariff Regulations are not applicable in the case is justified? Whether or not GTTPL is liable to make payment of the transmission charges for the mismatch period as per the 2019 Tariff Regulations and the 2020 Sharing Regulations?

Analysis and Decision

102. We have considered the submissions of the Petitioner and Respondents, and perused the material available on record. Our findings on the above issues are as follows:

Issue No. 1: Whether GTTPL is eligible for a waiver from payment of transmission charges for the mismatch period due to the extension provided by MoP orders and on account of Force Majeure events?

103. GTTPL has contended that it should be given a waiver from payment of the transmission charges until its COD for the mismatch period due to the extension provided by the MoP orders and force majeure events that delayed the commissioning of its transmission assets.

104. The Petitioner has contended that the transmission charges for the transmission assets for the 2019-24 tariff period will be shared in accordance with Regulation 57 of the 2019 Tariff Regulations and the 2020 Sharing Regulations.

105. MPPMCL and MSEDCL have argued that the Petitioner's assets could not be put into regular use due to the non-commissioning of the associated transmission system to be constructed by GTTPL under TBCB. As such, GTTPL should bear the transmission charges until the associated transmission system for Assets A and B is commissioned; thereafter, they will be shared under the PoC mechanism.

106. We have considered the submissions of the Petitioner, MPPMCL, MSEDCL, and GTTPL and have perused the record. While approving COD of the Petitioner's transmission assets



above in this order, we have approved the COD of the assets in line with the provisions of the Grid Code 2010 and Tariff Regulations 2019. The commercial operation dates of Assets-A and B have been approved as 5.7.2021 and 4.1.2022 respectively under 5(2) of the 2019 Tariff Regulations as the associated transmission line under the control of GTTPL is not ready. Regarding the delay in commissioning GPPTL's assets, we note that GPPTL filed Petition No. 239/MP/2021 for an extension in SCOD due to force majeure events.

107. We think it apt here to mention that the Commission, in its order dated 29.8.2023 in Petition No. 113/TT/2021, has decided that the delay due to force-majeure events does not exempt the associated upstream/downstream elements from bearing transmission charges for the period of mismatch. The relevant extracts are reproduced below:

"86. ATL has submitted that its transmission system is affected by force majeure conditions and that the Respondent has filed the Petition No. 480/MP/2019. In this regard, the Commission in its order dated 26.4.2022 in Petition No. 60/TT/2017 has aptly summed up the issue with regard to mismatch arising out of force majeure as follows:

"67. Hence, the principle has been followed consistently that even if under Force majeure, delay is condoned or SCOD is extended by the Commission, the liability of upstream/downstream system remains on such delayed transmission licensee."

87. Further, the Commission in the said order dated 26.4.2022 observed as follows:

"68. Further, there is clear fallacy in NTL's contentions. Suppose, for the sake of argument, it is assumed that NTL is not liable to pay IDC and IEDC. Then the question arises as to who will bear such charges due to Powergrid. This liability of IDC and IEDC cannot be capitalized as the transmission assets have not been put to use and the beneficiaries have not reaped any benefits. At the same time, PGCIL cannot be denied IDC and IEDC as it has done its part and made the transmission assets ready for use and, therefore, cannot be made to suffer on account of delay on the part of NTL. The IDC and IEDC payable by NTL to PGCIL cannot be passed on and loaded on the LTTCs/beneficiaries as there is no provision in TSA under which such recoveries can be made. In fact, the Commission in its order dated 21.9.2016 in the RAPP Case and order dated 4.1.2017 in the Patran Case has laid down the principle that the LTTCs/ beneficiaries are liable to pay transmission charges only when transmission system is being used or put to use. The APTEL in its judgement dated 27.3.2018 in Appeal No.390 of 2017 (the Patran Case) and judgement dated 18.1.2019 in Appeal No. 332 of 2016 (the RAPP Case) has upheld the same principles enunciated by the Commission. These principles flow from the principles enunciated by the Hon'ble Supreme Court vide judgment dated 3.3.2016 in Civil Appeal No. 9193 and Civil Appeal No. 9302 of 2012, wherein the Hon'ble Supreme Court observed as under:



"11. Xxx As such the appellant might have suffered due to delay on the part of NTPC in completing the transmission lines for some period. But beneficiaries, including respondent No. 1, cannot be made liable to pay for this delay w.e.f. 01.07.2010 as the energy supply line had not started on said date.

12. Xxx

13. Since we are in agreement with the Tribunal that in the present case, respondent No. 1 and the beneficiaries could not have been made liable to pay the tariff before transmission line was operational, we find no infirmity in the impugned order....."

88. The Commission is of the consistent view that even if the time over-run is condoned due to force majeure events, the entity responsible for the delay in implementation of the associated upstream/downstream elements is liable to bear the transmission charges for the period of mismatch. Accordingly, the Commission did not provide for any exemption from payment of transmission charges even in case of force majeure conditions in the 2020 Sharing Regulations. 89. In the instant case, the COD of Asset-II and Asset-III has been approved as 1.8.2019 under Regulation 5(2) of the 2019 Tariff Regulations and the COD of the associated Alipurduar-Siliguri Transmission Line under the scope of ATL was 17.1.2020. Thus, there is a mismatch in the COD of the associated transmission elements. Regulation 6(2)(a) of the 2019 Tariff Regulations provides for treatment of mismatch in COD of two transmission licensees of a connected transmission system. The Regulation 6(2)(a) of the 2019 Tariff Regulations provides as follows:

"6. Treatment of mismatch in date of commercial operation:

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

(a) Where an interconnected transmission system of other transmission licensee has not achieved the commercial operation as on the date of commercial operation of the transmission system (which is not before the SCOD of the interconnected transmission system) and the Commission has approved the date of commercial operation of such transmission system in terms of clause (2) of Regulation 5 of these regulations, the other transmission licensee shall be liable to pay the transmission charges of the transmission system in accordance with clause (5) of Regulation 14 of these regulations to the transmission licensee till the interconnected transmission system achieves commercial operation."

90. As per Regulation 6(2)(a) of the 2019 Tariff Regulations, if an inter-connected transmission system of other transmission licensee is not ready on the COD of the transmission asset and if the COD of the transmission asset has been approved under Regulation 5(2) of the 2019 Tariff Regulations, the transmission licensee has to bear the transmission charges of the transmission asset of the other transmission licensee till the COD of the inter-connected transmission system under its scope. The said provision does not distinguish between a transmission project under the RTM route and the TBCB route.

91. Further, the entity responsible for execution of the downstream or upstream transmission licensee or a generating station, irrespective of the fact that it is affected by force majeure events, has to bear the transmission charges for the period of mismatch from the transmission asset to the COD of transmission asset/ scheme under its scope. In the instant case, the associated transmission line was ready on 20.1.2020. Therefore, we are of the view that the transmission charges of the Asset-II and Asset-III should be borne by ATL from COD of the transmission asset, i.e. from 1.8.2019 upto 20.1.2020 and thereafter the transmission charges of the Asset-II and



Asset-III shall be recovered as per the provisions of the 2020 Sharing Regulations as provided in Regulation 57 of the 2019 Tariff Regulations.”

108. GTTPL has contended that the transmission line under its scope was delayed due to force majeure conditions and Change in Law issues faced by it, and therefore, it was incumbent upon the LTTCs to coordinate the interconnection, which they failed to do. The Commission, in its order dated 8.2.2022 in Petition No. 239/MP/2021 filed by GTTPL, has already held that an appropriate view on the claims made by GTTPL due to force majeure events would be taken after the completion of the transmission project by GTTPL. The relevant portion of the order dated 8.2.2022 is as follows:

“12. It is observed that the Petitioner has also claimed that various elements of the Project are affected by force majeure events and such events are still continuing. The Petitioner has approached the Commission for declaration of these events as force majeure events and requested for extension of SCOD of the Project, in advance. It is also clear that the Petitioner is unable to quantify and confirm the likely COD of the Project. Since the Project has not been completed by the Petitioner till date and there is uncertainty about the likely COD, it would not be appropriate to take any view on extension of SCOD at this stage. Accordingly, the Petitioner is granted liberty to approach the Commission to seek the appropriate relief for force majeure events, after completion of the Project.”

109. For the reasons mentioned above, we are not inclined to go into the issue of the extension of COD of GPPTL's assets due to the force majeure events in this Petition. As we have already observed above in this order that, in the facts and circumstances of the present case, the benefit of extension in the SCODs on account of COVID-19 is applicable to the assets of both the Petitioner and GTTPL and as such, no waiver from payment of transmission charges until the CODs of the assets of GTTPL can be granted to it. Thus, this issue is accordingly decided against GTTPL and in favour of the Petitioner.

110. We have further perused the directions issued by the MoP in its letter dated 15.1.2021. As regards the the MoP's directions dated 15.1.2021, the APTEL in its judgment dated 2.5.2023 in Appeal No. 352 of 2022 has held that the Commission, being a statutory body, need not be



bound by any such direction of the Government as the power to declare the subordinate legislations as ultra vires lie on the Hon'ble High Courts or the Hon'ble Supreme Court. The relevant portion of the said judgment is as follows:

“59. Viewed from any angle, we are satisfied that the directives in the letter dated 15.01.2021 do not bind the CERC, and it could not have been directed to amend the regulations. The power to declare subordinate legislation ultra vires, lies only with the Supreme Court and the High Courts exercising the power of judicial review, and is not within the province of the Central Govt or even this Tribunal. In any event, as the 2019 and the 2020 Regulations continue to remain in force, it is unnecessary for us to consider whether, even if it were to be amended, the amended provision would have any application to the present case.”

111. As regards the contention of GTTPL that the APTEL's judgment dated 2.5.2023 in Appeal No. 352 of 2022 is being challenged before the Hon'ble Supreme Court, we are of the view that there is no stay against the said judgment. Accordingly, this issue is decided against GTTPL and in favour of the Petitioner.

112. GTTPL has contended that the MoP had issued a direction under Section 107 of the Act dated 15.1.2021, *inter alia*, holding that in cases where there is a mismatch of the COD, the bilateral liability ought not to be imposed on an individual licensee. Per contra, the Petitioner has contended that the said contention of GTTPL being erroneous is liable to be rejected.

Issue No. 2: Whether GTTPL is liable to pay the transmission charges for the mismatch, as there is no contractual obligation with the Petitioner?

113. GTTPL has contended that no liability can be imposed on it as there is no relationship whatsoever between GTTPL and the Petitioner, either statutory, contractual or regulatory, based on which GTTPL can be made liable for payment of the transmission charges to the Petitioner bilaterally. Further, GTTPL has relied on the judgment of the APTEL dated 15.9.2022 in Appeal No. 109 of 2021, in the matter of PSTCL v. CERC & Ors., wherein the APTEL observed that in the absence of a formal contract between interconnecting entities, no liability for payment of



transmission charges can be imposed on the delaying entity in the case of a mismatch in commissioning.

114. In response, the Petitioner has contended that GTTPL had to implement the transmission lines in its scope and the Petitioner had to implement bays and a reactor (Assets-A and B) as per the scheme agreed upon in the RPC and the SCM forums. According to the Petitioner, GTTPL cannot now contend that it has no contractual relation with the Petitioner. The Petitioner has also contended that the event of a mismatch is recognised by Regulation 5(2) of the 2019 Tariff Regulations and Regulation 13(12) of the 2020 Sharing Regulations, which are made in exercise of the power conferred by Section 178 of the Act. The Petitioner has contended that GTTPL's reliance in Appeal No. 109 of 2021 is misconceived and placed reliance on the APTEL judgment dated 2.5.2023 in Appeal No. 352 of 2022, to contend that the entities are bound by the regulations, even if there is no contract between them.

115. We have considered the contentions of the Petitioner and GTTPL and have perused the APTEL's judgments dated 15.9.2022 in Appeal No. 109 of 2021 and dated 2.5.2023 in Appeal No. 352 of 2022. On perusal of the judgement of APTEL dated 15.9.2022 in Appeal No. 109 of 2021 relied on by GTTPL to contend that no liability can be imposed on it as there is no relationship either statutory, contractual or regulatory does not inspire us in view of recent judgment of APTEL dated 2.5.2023 in Appeal No. 352 of 2022 wherein the APTEL with regard to absence of any legal contract observed that the entities are bound by the regulations even if there is no contract between them.

116. The relevant portion of the said judgment is as follows:

"58. Both the 2019 and the 2020 Regulations, made by the CERC in the exercise of the powers conferred on it under Section 178 of the Act, must be treated, for all purposes of construction or obligations, exactly as if they were in the Electricity Act and are to the same effect as if they were



contained in the said Act. These Regulations are statutory in character, constitute law, and are binding on all the regulated entities including the appellant herein (as well as the CERC and even this Tribunal). Consequently, even in the absence of a contract between them and PGCIL, the Appellant would nonetheless be governed by these 2019 and 2020 statutory regulations. Reliance placed on behalf of the Appellant, on NRSS XXXI (B) Transmission Ltd, is therefore misplaced.”

117. On perusal of the above excerpt of the FBTL Judgment, we are of the view that the APTEL has interpreted clearly that both the 2019 Tariff Regulations and 2020 Sharing Regulations made by the Commission under Section 178 of the Act are law and are binding on all the regulated entities. The APTEL, in the said judgment, further observed that even in the absence of a contract between the PGCIL and the Appellant in the said case, the Appellant would be governed by the 2019 Tariff Regulations and the 2020 Sharing Regulations. For the reasons mentioned above, we are of the view that even if there is no contract between the Petitioner and GTTPL in the case at hand, GTTPL is liable to pay the transmission charges for the mismatch period in terms of the 2019 Tariff Regulations and the 2020 Sharing Regulations. This issue is accordingly decided against GTTPL and in favour of the Petitioner.

Issue No.3 : Whether GTTPL is right in stating that, in the facts and circumstances of the present case, Yearly Transmission Charges, if any, payable shall be as per the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) (2nd Amendment) Regulations, 2023, after 1.11.2023?

118. GTTPL has contended that the Yearly Transmission Charges (YTC), if any, payable for the inter-State transmission system or an element whose deemed COD has been approved or declared shall be as per the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) (2nd Amendment) Regulations, 2023 (2020 Sharing Regulations, 2nd Amendment) which is effective from 1.11.2023.

119. We have considered the contentions of GTTPL and have perused the record. In the facts and circumstances of the present case, we have already approved the COD of the Petitioner's Assets-A and B as 5.7.2021 and 4.1.2022, respectively, under Regulation 5(2) of the



2019 Tariff Regulations. However, on these dates, the associated transmission assets under the scope of work of GTTPL were not ready. We are not agreeable with the contention of GTTPL that the payment of transmission charges for the mismatch period in the present case for the CODs of the Petitioner's assets and that of GTTPL's assets would be as per the 2020 Sharing Regulations, 2nd Amendment since we have already approved the COD of the Petitioner's Assets-A and B as 5.7.2021 and 4.1.2022 respectively while the 2020 Sharing Regulations, 2nd Amendment is effective from 1.11.2023. Thus, there is no substance in the contention of GTTPL, and the same is accordingly rejected.

Issue No.4: Whether GTTPL's claim that the 2019 Tariff Regulations are not applicable in the case is justified? Is GTTPL liable to pay the transmission charges for the mismatch period as per the 2019 Tariff Regulations and the 2020 Sharing Regulations?

120. GTTPL has contended that the 2019 Tariff Regulations are not applicable to it as the same are being implemented under the TBCB regime. GTTPL has further contended that it is not liable under the 2019 Tariff Regulations and the 2020 Sharing Regulations to bear transmission charges for the period of mismatch, as it is a TBCB project under section 63 of the Act. The Petitioner's transmission assets are being implemented under the RTM route, which is covered under section 62 of the Act.

121. We have considered the submissions of the parties and have perused the record. Regulation 2(1) of the 2019 Tariff Regulations provides that these regulations shall apply in all cases where a tariff for a generating station or a unit thereof and a transmission system or an element thereof is required to be determined by the Commission under section 62 of the Act, read with Section 79 thereof. We further note that the 2019 Tariff Regulations have been framed by the Commission in exercise of the power conferred under section 178 of the Act, read with section 61 of the Act. Accordingly, the 2019 Tariff Regulations are applicable to the transmission assets of the Petitioner covered under Section 62 of the Act.



122. We are further of the view that per the provisions of Regulation 5(2) of the 2019 Tariff Regulations, if a transmission licensee is ready for commercial operation but the inter-connected generating station or the transmission system of other transmission licensee(s) as per the agreed project implementation schedule, it is not ready for commercial operation, the transmission licensee may approach the Commission for approval of the COD of such transmission system or element thereof subject to prior notice of at least one month to the other transmission licensee or the LTTCs of its transmission system as the case may be.

123. In the instant case, the Petitioner's transmission asset was not utilized due to a delay in the completion of the transmission lines under the scope of GTTPL. Accordingly, we have approved the COD of Asset-A as 5.7.2021 and Asset-B as 4.1.2022 under Regulation 5(2) of the 2019 Tariff Regulations, as the associated transmission assets of GTTPL were not ready as of 5.7.2021 and 4.1.2022, respectively.

124. We deem it proper here to refer to the provisions of Regulation 13(12) of the 2020 Sharing Regulations, and the same are as follows:

“(12) In case of a transmission system where COD has been approved in terms of proviso (ii) of Clause (3) of Regulation 4 of the Tariff Regulations, 2014 or Clause (2) of Regulation 5 of the Tariff Regulations, 2019 or where deemed COD has been declared in terms of Transmission Service Agreement under Tariff based Competitive Bidding, the Yearly Transmission Charges for the transmission system shall be:

(a) paid by the inter-State transmission licensee whose transmission system is delayed till its transmission system achieves COD, or”

125. As per Regulation 13(12) of the 2020 Sharing Regulations, when the COD of a transmission asset/ system is approved under Regulation 5(2) of the said Regulations, the Yearly Transmission Charges of the transmission asset/ system shall be paid by the ISTS licensee whose transmission system is delayed till its transmission system achieves COD. The provision in question does not distinguish between transmission projects under the RTM route



and the TBCB route. Therefore, the contention of GTTPL that it is not liable to bear the transmission charges under the 2019 Tariff Regulations and the 2020 Sharing Regulations is misconceived and rejected. Accordingly, this issue is decided against GTTPL and in favour of the Petitioner.

126. In view of the above discussions, we hereby direct GTTPL to pay the transmission charges of the Petitioner's assets from their commercial operation dates, i.e. Asset-A from 5.7.2021 and Asset-B from 4.1.2022 till the CODs of its associated transmission assets being implemented by GTTPL as per provisions of the 2020 Sharing Regulations, as amended from time to time. Accordingly, the billing, collection, and disbursement of transmission charges shall be recovered in terms of the provisions of the 2020 Sharing Regulations as provided under Regulation 57 of the 2019 Tariff Regulations.

Interim Tariff

127. The Petitioner has prayed to allow interim tariff under Regulation 10(3) of the 2019 Tariff Regulations, to be included in the point-of-connection charges.

128. We have considered the Petitioner's submissions. Since we have determined the transmission tariff in respect of the transmission assets in this order, the prayer of the Petitioner for the interim tariff becomes redundant. Therefore, we have not considered it in this order.

129. To summarize, AFC claimed and allowed in respect of the transmission assets for the 2019-24 tariff period in this order are as follows:

AFC claimed:

(₹ in lakh)			
AFC	2021-22	2022-23	2023-24
Asset-A	175.14	245.60	250.29
Asset-B	30.33	134.33	141.23



AFC allowed:

(₹ in lakh)

AFC	2021-22	2022-23	2023-24
Asset-A	174.26	244.39	249.84
Asset-B	30.33	134.33	141.49

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

131. This order disposes of Petition No. 7/TT/2023 in terms of the above findings and discussions.

sd/-
(Harish Dudani)
Member

sd/-
(Ramesh Babu V.)
Member

sd/-
(Jishnu Barua)
Chairperson



Annexure**Asset-A**

(₹ in lakh)

Capex	Admitted Capital Cost as on COD	Projected ACE			Admitted Capital Cost as on 31.3.2024	Depreciation Rate	Annual Depreciation		
		2021-22	2022-23	2023-24			2021-22	2022-23	2023-24
Building	4.65	7.79	12.07	0.00	24.51	3.34%	0.29	0.62	0.82
Sub-station	853.80	36.39	62.78	0.00	952.97	5.28%	46.04	48.66	50.32
PLCC	148.97	0.92	3.80	0.00	153.69	6.33%	9.46	9.61	9.73
IT Equipment	5.05	0.36	1.20	0.00	6.61	15.00%	0.78	0.90	0.99
Total	1012.47	45.46	79.85	0.00	1137.78		56.57	59.79	61.86
						Avg. Gross Block	1035.20	1097.85	1137.78
						WAROD	5.46%	5.45%	5.44%

Asset-B

(₹ in lakh)

Capex	Admitted Capital Cost as on COD	Projected ACE			Admitted Capital Cost as on 31.3.2024	Depreciation Rate	Annual Depreciation			
		2021-22	2022-23	2023-24			2021-22	2022-23	2023-24	
Building	0.00	0.00	10.38	15.58	25.96	3.34%	0.00	0.17	0.61	
Sub-station	832.31	3.08	103.09	2.99	941.47	5.28%	44.03	46.83	49.63	
PLCC	0.00	0.00	0.00	0.00	0.00	6.33%	0.00	0.00	0.00	
IT Equipment	0.00	0.00	0.00	0.00	0.00	15.00%	0.00	0.00	0.00	
Total	832.31	3.08	113.47	18.57	967.43		44.03	47.00	50.24	
							Avg. Gross Block	833.85	892.13	958.15
							WAROD	5.28%	5.27%	5.24%

