

BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION
6th, 7th & 8th FLOORS, TOWER B, WORLD TRADE CENTRE,
NAUROJI NAGAR, NEW DELHI – 110029

REVIEW PETITION NO. ___ OF 2026

IN Petition No: 485/GT/2024

IN THE MATTER OF:

Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 and Regulation 52 of the CERC (Conduct of Business) Regulations, 2023 for Review of Order dated 31.03.2026 of Hon'ble Central Electricity Regulatory Commission in Petition No. 485/GT/2024 filed by THDC India Limited.

AND IN THE MATTER OF:

THDC India Limited

-Review Petitioner

VERSUS

Punjab State Power Corporation Limited and Others

- Respondents

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THDC India Limited



(Neeraj Kumar)

AGM (Finance)-Commercial/PTC

नीरज कुमार
NEERAJ KUMAR
अपर महाप्रबंधक (वित्त)/AGM (Finance)
वाणिज्यिक/वावर ट्रेडिंग सेल/Commercial/Power Trading Cell
टीएचडीसी इंडिया लिमिटेड, ऋषिकेश
THDC INDIA LIMITED, RISHIKESH

Place: Rishikesh

Date: 06.05.2026



टीएचडीसी इंडिया लिमिटेड THDC INDIA LIMITED

"अनुसूची-क मिनी रत्न श्रेणी-I पीएसयू, एनटीपीसी लिमिटेड की सहायक कंपनी"
"Schedule - A Mini Ratna Category-I PSU, a subsidiary of NTPC Limited"

CIN : U45203UR1988GOI009822



पत्रांक: टीएचडीसी/ऋषि/वाणि./F-122/446

दिनांक: 06.05.2026

सेवा मे,

सचिव,

केंद्रीय विद्युत नियामक आयोग

6वीं, 7वीं और 8वीं मंजिल, टॉवर बी,

वर्ल्ड ट्रेड सेंटर, नौरोजी नगर,

नई दिल्ली- 110029

विषय: Application for Review of Order dated 31.03.2026 of Hon'ble Central Electricity Regulatory Commission in Petition No. 485/GT/2024 filed by THDC India Limited for Koteshwar Hydro Electric Project.

महोदय,

Please find enclosed herewith, Review Petition under affidavit, Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 and Regulation 52 of the CERC (Conduct of Business) Regulations, 2023 for Review of Order dated 31.03.2026 of Hon'ble Central Electricity Regulatory Commission in Petition No. 485/GT/2024 filed by THDC India Limited.

'सादर'

भवदीय

टीएचडीसी इंडिया लिमिटेड की ओर से

(नीरज कुमार)

अपर महाप्रबंधक (वित्त)-वाणिज्यिक/पी. टी. सी.

वितरण:सूची के अनुसार।



प्रधान कार्यालय : गंगा भवन, प्रगतिपुरम, बाईपास रोड, ऋषिकेश-249201
Corporate Office : GANGA BHAWAN, PRAGATIPURAM, BYPASS ROAD, RISHIKESH-249201
पंजीकृत कार्यालय : गंगा भवन, प्रगतिपुरम, बाईपास रोड, ऋषिकेश-249201
Regd. Office : GANGA BHAWAN, PRAGATIPURAM, BYPASS ROAD, RISHIKESH-249201
Website Address : www.thdc.co.in

('हिन्दी को राजभाषा बनाना, भाषा का प्रश्न नहीं अपितु देशाभिमान का प्रश्न है')

Distribution list:

1.	The Chairman cum Managing Director, Punjab State Power Corporation Limited, The Mall, Patiala – 147001 (Punjab)	8.	The Managing Director, Ajmer Vidyut Vitran Nigam Ltd., Old Power House, Hatthi Bhatta, Jaipur road, Ajmer-305001 (Rajasthan)
2.	The Chairman, Haryana Power Utilities (DHBVNL & UHBVNL), Shakti Bhawan, Sector 6, Panchkula – 134 109 (Haryana)	9.	The Managing Director, Jodhpur Vidyut Vitran Nigam Ltd., New Power House, Industrial Area Jodhpur-342003 (Rajasthan)
3.	The Chairman, Uttar Pradesh Power Corporation Limited, Shakti Bhawan, 14 Ashok Marg, Lucknow – 226001 (UP)	10.	Principal Secretary (Power) Power Development Department (PDD), Govt. of J&K, Civil Secretariat, Jammu -180001 (J&K)
4.	Chief Executive Officer, BSES Rajdhani Power Ltd., BSES Bhawan, Nehru Place, Behind Nehru Place Bus Terminal, New Delhi-110019	11.	The Managing Director, Jammu and Kashmir State Power Trading Company Ltd., PDD Complex, Bemina, Srinagar-190010 (J&K)
5.	Chief Executive Officer, BSES Yamuna Power Ltd., 3rd Floor, Shakti Kiran Building, Karkardooma, Near Court, New Delhi-110092	12.	The Chief General Manager (Commercial), Madhya Pradesh Power Management Company Limited (MPPMCL), 3rd Floor, Block No. 11, Shakti Bhawan, Rampur, Jabalpur-482008 (MP)
6.	Chief Executive Officer, TATA Power Delhi Distribution Ltd., 33 KV Grid Sub-Station Building, Hudson Lane, Kingsway Camp, Delhi-110009	13.	The Managing Director, Rajasthan Urja Vikas and IT Services Nigam Limited, Vidyut Bhawan, Jyoti Nagar, Jaipur- 302005 (Rajasthan)
7.	Secretary (Engineering), Engineering Dept., Chandigarh Administration, 1st Floor, UT Secretariat, Sector 9-D, Chandigarh-160009	14.	General Manager (Commerce) Gujarat Urja Vikas Nigam Limited (GUVNL), Sardar Patel, Vidyut Bhawan, Race Course, Vadodara, Gujarat - 390007

15.	Managing Director, Uttarakhand Power Corporation Ltd., Urja Bhawan, Kanwali Road, Dehradun-248001 (UK)	19.	Chief Engineer (PMC) Bihar State Power Holding Company Ltd, 5th Floor, Vidyut Bhawan, JLN Marg, Patna, Bihar-800 021
16.	The Chairman, HPSEB Limited, Vidyut Bhawan, Shimla-171004 (HP)	20.	Director (Power)/EE (SLDC) New Delhi Municipal Council, Room No-1901, 19 th Floor Palika Kendra, Sansad Marg, New Delhi-110102
17.	The Managing Director, Jaipur Vidyut Vitran Nigam Ltd., Vidyut Bhawan, Janpath, Jyoti Nagar, Jaipur-302005 (Rajasthan)		



टीएचडीसी इंडिया लिमिटेड THDC INDIA LIMITED

"अनुसूची-क मिनी रत्न श्रेणी-I पीएसयू, एनटीपीसी लिमिटेड की सहायक कंपनी"
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पत्रांक: टीएचडीसी/ऋषि/वाणि./F-122/445

दिनांक: 06.05.2026

सेवा मे,

सचिव,

केंद्रीय विद्युत नियामक आयोग

6वीं, 7वीं और 8वीं मंजिल, टॉवर बी,

वर्ल्ड ट्रेड सेंटर, नौरोजी नगर, नई दिल्ली- 110029

विषय: Letter of Authorization for filing of Review Petition.

महोदय,

This is to inform you that Sh. Neeraj Kumar, Addl. General Manager (Finance)-Commercial/PTC, THDC India Limited, is authorized to sign the Review Petition under Section 94(1)(f) of the Electricity Act, 2003 read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 and Regulation 52 of the CERC (Conduct of Business) Regulations, 2023 for Review of Order dated 31.03.2026 of Hon'ble Central Electricity Regulatory Commission in Petition No. 485/GT/2024 filed by THDC India Limited.

This is being issued with the approval of competent authority.

'सादर'

भवदीय,

टीएचडीसी इंडिया लिमिटेड की ओर से

आर के वर्मा
06/05/2026

(आर के वर्मा)

महाप्रबंधक (वाणिज्यिक)



प्रधान कार्यालय : गंगा भवन, प्रगतिपुरम, बाईपास रोड, ऋषिकेश-249201
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IN THE MATTER OF:

THDC India Limited

- Review Petitioner

VERSUS

Punjab State Power Corporation Limited and Others.

- Respondents

MEMO OF APPEARANCE

I, Neeraj Kumar, AGM (Finance)-Commercial/PTC, THDC India Limited authorized representative of the Petitioner above named, do hereby nominate/appoint, M/s Anushree Bardhan & Associates, with e-portal ID- anushreebardhan to act, plead and appear on behalf of the Petitioner in the aforesaid matter.

IN WITNESS WHEREOF, I have set and subscribed my hands to this writing on this 6th day of May'2026.

Place: Rishikesh

Date: 06.05.2026



Signature

Address for Correspondence

**THDC India Limited, Sarsawati Bhawan,
Pragatipuram, Bypass Road, Rishikesh-249201**

BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION

**6th, 7th & 8th FLOORS, TOWER B, WORLD TRADE CENTRE,
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AND IN THE MATTER OF:

THDC India Limited

Ganga Bhawan, Pragatipuram, ByPass Road, Rishikesh,

Uttarakhand – 249 201

- Review Petitioner

VERSUS

1. Punjab State Power Corporation Limited,
The Mall,
Patiala – 147001 (Punjab)

2. Haryana Power Utilities (DHBVNL & UHBVNL),
Shakti Bhawan, Sector 6,
Panchkula – 134109 (Haryana)

3. Uttar Pradesh Power Corporation Limited,
Shakti Bhawan, 14 Ashok Marg,
Lucknow – 226001 (UP)

4. BSES Rajdhani Power Ltd.,
BSES Bhawan, Nehru Place,
Behind Nehru Place Bus Terminal,
New Delhi-110019

5. BSES Yamuna Power Ltd.,
3rd Floor, Shakti Kiran Building,
Karkardooma, Near Court,
New Delhi-110092
6. TATA Power Delhi Distribution Limited,
33 KV Grid Sub-Station Building, Hudson Lane,
Kingsway Camp, Delhi-110009
7. Engineering Dept., Chandigarh Administration,
1st Floor, UT Secretariat, Sector 9-D,
Chandigarh-160009
8. Uttarakhand Power Corporation Limited,
Urja Bhawan, Kanwali Road,
Dehradun-248001 (UK)
9. HPSEB Limited,
Vidyut Bhawan,
Shimla-171004 (HP)
10. Jaipur Vidyut Vitran Nigam Limited,
Vidyut Bhawan, Janpath,
Jyotinagar, Jaipur-302005 (Rajasthan)
11. Ajmer Vidyut Vitran Nigam Limited,
Old Power House, Hatthi Bhatta,
Jaipur road, Ajmer-305001 (Rajasthan)
12. Jodhpur Vidyut Vitran Nigam Limited,
New Power House, Industrial Area,
Jodhpur-342003 (Rajasthan)
13. Rajasthan Urja Vikas and IT Services Nigam Limited,
Vidyut Bhawan, Jyoti Nagar,
Jaipur- 302005 (Rajasthan)

14. Power Development Department,
Govt. of J&K, Civil Secretariat,
Jammu -180001 (J&K)
 15. Jammu and Kashmir State Power
Trading Company Ltd., PDD Complex,
Bemina, Srinagar-190010 (J&K)
 16. Madhya Pradesh Power Management Company Limited,
3rd Floor, Block No. 11, Shakti Bhawan, Rampur,
Jabalpur- 482008 (MP)
 17. Gujarat Urja Vikas Nigam Limited,
Sardar Patel, Vidyut Bhawan, Race Course,
Vadodara-390007 (Gujarat)
 18. Bihar State Power Holding Company Limited,
5th Floor, Vidyut Bhawan, JLN Marg,
Patna -800 021 (Bihar)
 19. New Delhi Municipal Council
Palika Kendra, Sansad Marg,
New Delhi-110102
- Respondents

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6th, 7th & 8th FLOORS, TOWER B, WORLD TRADE CENTRE,
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AND IN THE MATTER OF:

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Punjab State Power Corporation Limited and Others

- Respondents

PETITION UNDER SECTION 94(1)(F) OF THE ELECTRICITY ACT, 2003 READ WITH ORDER 47 RULE 1 OF THE CODE OF CIVIL PROCEDURE, 1908 AND REGULATION 52 OF THE CERC (CONDUCT OF BUSINESS) REGULATIONS, 2023 FOR REVIEW OF ORDER DATED 31.03.2026 OF HON'BLE CENTRAL ELECTRICITY REGULATORY COMMISSION IN PETITION NO. 485/GT/2024 FILED BY THDC INDIA LIMITED.

MOST RESPECTFULLY SHOWETH:

A. EXECUTIVE SUMMARY OF THE PETITION

(i) Brief Background of the Petitioner

1. The Review Petitioner, THDC India Limited (hereinafter 'THDCIL'), is a Mini Ratna Category-I Central Public Sector Enterprise. THDCIL is a Generating Company, formed as a joint venture between Govt. of India and Govt. of Uttar Pradesh. A Share Purchase Agreement was executed between NTPC Limited and President of India on March 25, 2020, for acquisition of legal and beneficial ownership of equity held by the President of India in THDCIL which represents 74.496% of the total paid up share capital of THDCIL by NTPC Limited. THDCIL is now a subsidiary of NTPC Limited having shareholders pattern of 74.496%

with NTPC Limited, 25.504% with Govt. of Uttar Pradesh. THDCIL is a generating company within the meaning of the Electricity Act, 2003 and is engaged in the generation of electricity from hydroelectric and other sources. The tariff for the THDCIL's Koteshwar Hydroelectric Project (400 MW) is determined by this Hon'ble Commission.

(ii) Brief Background of the Respondents

2. The Respondents are the beneficiaries/long-term customers/distribution licensees who are purchasing power from the Koteshwar Hydroelectric Project (400 MW) of THDCIL under the relevant Power Purchase Agreements (PPA) and tariff orders issued by this Hon'ble Commission.

(iii) Brief of the Order Against Which Review is Filed

3. The Review Petitioner is filing the present Review Petition for review of the Order dated 31.03.2026 (hereinafter 'Impugned Order') passed by this Hon'ble Commission in Petition No. 485/GT/2024 for truing up of tariff for the Koteshwar Hydroelectric Project (4 x 100 MW) for the period 2019-24 and determination of tariff for the period 2024-29, in accordance with the CERC (Terms and Conditions of Tariff) Regulations, 2019 ('**2019 Tariff Regulations**') and the CERC (Terms and Conditions of Tariff) Regulations, 2024 ('**2024 Tariff Regulations**').

The original certified copy of the Impugned Order dated 31.03.2026 is attached hereto and marked as **Annexure 'R/1'**.

(iv) Grounds of Review in Brief

4. The Review Petitioner is filing the present Review Petition on the following grounds:
 - (a) The Hon'ble Commission, in the Impugned Order, while treating the Arbitral Award interest amount of ₹984.55 crore as a reimbursement, has committed an error apparent on the face of the record by failing to grant the mandatory carrying cost on the said reimbursement as expressly stipulated Regulation 13 (4) of the 2019 Tariff Regulations, and settled legal principles of restitution and time value of money as duly recognized in the subsequent tariff regulations namely proviso to Regulation 91 read with Regulations 10(6) and 10(7) of the 2024 Tariff Regulations.
 - (b) The Hon'ble Commission has similarly failed to grant carrying cost on the reimbursement of ₹45.86 lakh (interest paid to M/s Patel Engineering under

the CCIE/Vivad Se Vishwas mechanism), which is also an error apparent on the face of the record.

- (c) The non-application of the mandatory carrying cost provisions as per settled principle of law and despite THDC having been deprived of the use of substantial funds from the date of actual payment, constitutes an error apparent on the face of the record and a sufficient cause for review under Order 47 Rule 1 of the Code of Civil Procedure, 1908.

(v) Reliefs Sought

5. The Review Petitioner is seeking review and modification of the Impugned Order so as to direct:
- a) grant of carrying cost on the reimbursement of ₹984.55 crore (Arbitral Award interest) from the date of actual payment till the date of presentation of bill of carrying cost to the beneficiaries in terms of the settled legal principles of restitution and time value of money and at the rate specified under Regulation 13 (4) of the 2019 Tariff Regulations;
 - b) grant of carrying cost on the reimbursement of ₹45.86 lakh (CCIE Settlement interest) from the date of actual payment till the date of presentation of bill of carrying cost to the beneficiaries in terms of the settled legal principles of restitution and time value of money and at the rate specified under Regulation 13 (4) of the 2019 Tariff Regulations;
 - c) Alternatively, compute the carrying cost on the above amounts at the rate specified in Regulation 91 read with Regulations 10(6) and 10(7) of the 2024 Tariff Regulations, or such other rate that this Hon'ble Commission considers suitable and proper;

B. DETAILED PETITION

(i) Background of the Koteshwar HEP and the Original Petition

6. The Koteshwar Hydroelectric Project (4 x 100 MW) ('Koteshwar HEP') is a part of the Tehri Hydro Power Complex in Tehri Garhwal district, Uttarakhand. The Commercial Operation Dates (CODs) of the four units of the Koteshwar HEP are as under:

Unit	Commercial Operation Date (COD)
Unit I	01.04.2011

Unit II	26.10.2011
Unit III	13.02.2012
Unit IV	01.04.2012

7. On 29.12.2023, THDCIL had filed Petition No. 60/GT/2024 before this Hon'ble Commission seeking interim truing up and revision of tariff for the period 2019-24 under Regulations 13(3), 76, and 77 of the 2019 Tariff Regulations, primarily to recover substantial liabilities amounting to Rs.1460.25 crore, including principal and interest arising from an arbitration award dated 17.12.2010 in a contract dispute which was upheld by the Hon'ble Delhi High Court vide its orders dated 13.12.2019, 12.7.2023, and 28.7.2023. In the said petition THDCIL had given the details of the computation of interest amount accrued from the date of the arbitration award and if need be THDCIL would crave leave to refer to the same at the time of the hearing. This Hon'ble Commission vide Order dated 08.11.2024 in Petition No. 60/GT/2024 allowed the principal amount of ₹475.70 crore as additional capitalization for the period 2023-24 and directed that the interest amount of ₹984.55 crore would be considered at the time of truing up in terms of Regulation 13(1) of the 2019 Tariff Regulations. A copy of the Order dated 08.11.2024 in Petition No. 60/GT/2024 is attached 'hereto and marked as **Annexure 'R/2'**.
8. On, 30.10.2024, THDCIL filed Petition No. 485/GT/2024 before this Hon'ble Commission for:
- (a) truing up of tariff for the Koteshwar HEP for the period 2019-24 under the 2019 Tariff Regulations; and
- (b) determination of tariff for the period 2024-29 under the 2024 Tariff Regulations.
9. In the said Petition, THDCIL, inter alia, claimed the following amounts in respect of True Up for 2019-24 [**at Page No. 16-26 of the Petition No. 485/GT/2024**]:
- (a) The liabilities imposed by the Arbitral Award dated 17.12.2010 read with orders dated 13.12.2019, 12.07.2023 and 28.07.2023 of the Hon'ble Delhi High Court: ₹984.55 crore (i.e., the Interest accrued on the principal amount of ₹475.70 crore), claimed under Regulation 25(1)(a) of the 2019

- Tariff Regulations as additional capital expenditure (hereinafter 'Arbitral Award Interest').
- (b) Amount paid to M/s Patel Engineering in FY 2023-24 under the CCIE mechanism (Vivad Se Vishwas scheme): ₹3687.75 lakh, comprising ₹3641.89 lakh as additional capital expenditure and ₹45.86 lakh as interest charges, claimed under Regulation 26(1)(a) of the 2019 Tariff Regulations (hereinafter 'CCIE Settlement').
10. THDCIL has made actual payments as under:
- (a) Arbitral Award: ₹450 Crore on 27.01.2020, and ₹1010.25 Crore on 31.08.2023, totaling ₹1460.25 Crore, in compliance with the orders of the Hon'ble Delhi High Court in OMP (Enf.) (Comm.) No. 91 of 2019.
- (b) ₹3687.75 lakh to M/s Patel Engineering in FY 2023-24 under the CCIE mechanism on 10.11.2023.
11. This Hon'ble Commission vide the Impugned Order dated 31.03.2026 held as under qua the Arbitration Award:

"Arbitration/Court cases THDCIL Vs M/s PCL-ILC JV matter

21. The Petitioner has claimed additional capital expenditure of Rs.1460.25 crore under Regulation 25(1)(a), 76(Power to Relax) and 77(Power to Remove Difficulty) for the year 2023-24, on account of the liability incurred owing to the Arbitral award dated 17.12.2010 read with orders dated 13.12.2019, 12.7.2023 and 28.7.2023 of the Hon'ble Delhi High Court. In this regard, the Petitioner had filed Petition No. 60/GT/2024 seeking a revision of the tariff for the generating station for the period 2019-24 through an interim true-up exercise. The Petitioner, vide the said Petition, had invoked the Commission's power to relax or remove difficulties under Regulations 76 and 77 of the 2019 Tariff Regulations.

...

27. The matter has been considered. The Commission, vide order dated 8.11.2024 in Petition No. 60/GT/2024, had allowed the principal amount of Rs. 475.70 crore (out of total claim of Rs. 1460.25 crore) in 2023-24 to meet the arbitral award and had granted an opportunity to the Petitioner to claim the remaining amount at the time of truing up of the period 2019-24.

28. It is pertinent to note that the said order had only considered Rs 475.70 crore, i.e., principal amount against the total arbitral award of Rs 1460.25 crore. However, the Petitioner had deposited the entire

arbitration award of Rs. 1460.25 crore in accordance with the orders of the Hon'ble Delhi High Court (a). Rs. 450 crore vide order dated 13.12.2019, (b). Rs.1010.25 crore as per the order dated 28.7.2023 before the Registrar, Delhi High Court. As on date, the matter is pending for a final view vide Civil Appeal No. 8357 of 2024 before the Hon'ble Supreme Court.

29. However, considering the enormity of the interest payment of the entire arbitration amount as well as the pendency of the civil appeal before the Hon'ble Supreme Court, we are of the view that the interest amount cannot form part of the capital cost and is more appropriately treated as a reimbursement. Further, since the interest amount would be recoverable by the Petitioner during the period 2024-29, we deem it appropriate to allow the recovery of Rs. 984.55 Crore of interest expense in 36 monthly instalments from the beneficiaries under the powers to relax. However, the final admissibility of the arbitration amount shall remain subject to the outcome of the proceedings pending before the Hon'ble Supreme Court.

..."

12. Further, with respect to the CCIE Settlement interest, the Impugned Order states as under:

"Claim settlement through CCIE mechanism (Vivad Se Vishwas)

30. The Petitioner has sought Rs. 3687.75 lakh (Rs. 3641.89 lakh as additional capital expenditure and Rs. 45.86 lakh as interest charges) under Regulation 26(1)(a) of the 2019 Tariff Regulations during the year 2023-24. In justification of the same, the Petitioner has stated that in terms of the dispute avoidance mechanism by way of constituting the Conciliation Committee of Independent Experts ("CCIE") for the settlement of disputes arising in contracts of Hydro CPSUs, the dispute between M/s Patel Engineering and the Petitioner was referred to CCIE on the request of M/s Patel Engineering.

31. In view of the said mechanism, the Petitioner has made payment of Rs. 3687.75 lakh to M/s Patel Engineering and has prayed for Rs. 3641.89 lakh as additional capital expenditure during 2023-24 and Rs. 45.86 lakh as interest charges to be allowed as additional O&M expense for the year 2023-24.

...

35. The matter has been considered. The order dated 3.10.2022 in Petition No. 244/GT/2020 had allowed additional capital expenditure pertaining to the said works upon submission of relevant documents at the time of truing up. On the prudence check, we observe that the Petitioner has provided/ and placed the details of balance civil works and other relevant documents. Accordingly, Rs. 3641.89 lakh is hereby allowed in terms of Regulation 26(1)(a) of 2019 Tariff Regulations as additional capital expenditure. Further, considering the claim regarding the Petitioner's charging of an

*interest amount of Rs. 45.86 lakh under the Profit and Loss statement and reimbursement of the same through additional O&M expenses, we are of the view that the same cannot be considered as part of O&M expenses. **However, considering that the interest amount of Rs. 45.86 lakh was paid to M/s Patel Engineering under the CCIE mechanism, the Commission feels it is appropriate to allow recovery of the same as a one-time payment from the beneficiaries under the power to relax. Also, considering that this expenditure is allowed in exercise of the power to relax, the expenses allowed are not made part of the annual fixed charges determined in this order. We make it clear that the above amount, which has been allowed as reimbursement, shall not be accounted as part of actual O&M expenses for the year 2023-24 and shall not be taken into consideration while framing the normative O&M expenses of this" generating station for the period 2029-34."***

Thus, the Hon'ble Commission, in the said Order, has not considered the Arbitral Award interest amount of ₹984.55 crore, paid by THDCIL, as capital expenditure in line with the prevailing 2019 Tariff Regulations but have instead treated the same as a reimbursement. Further, the Hon'ble Commission has allowed recovery of the aforesaid amount in 36 monthly instalments from the beneficiaries recoverable during the period 2024-29. Further, the interest amount of Rs. 45.86 lakh, paid to M/s Patel Engineering under the CCIE mechanism, the Hon'ble Commission allowed recovery of the same as a one-time payment from the beneficiaries.

13. It is humbly submitted that while the Hon'ble Commission has allowed the recovery of the above amounts as reimbursements, it has failed to consider carrying cost/interest on the said reimbursements as required by the 2019 Tariff Regulations and settled principles of restitution and time value of money. This omission constitutes an error apparent on the face of the record warranting review, as detailed below.

(iii) Relevant Regulations

14. Regulation 13(4) of the 2019 Tariff Regulations also provides for the grant of simple interest at the rate equal to the bank rate as on 1st April of the respective years of the tariff period, on any shortfall in tariff recovery after truing up, in six equal monthly instalments, inter-alia stating as under:

(4) After truing up, if the tariff already recovered exceeds or falls short of the tariff approved by the Commission under these regulations, the generating company or the transmission licensee, shall refund to or recover from, the beneficiaries or the long term customers, as the case may be, the excess or the shortfall amount along with simple interest at the

rate equal to the bank rate as on 1st April of the respective years of the tariff period in six equal monthly instalments.

15. Further, Regulation 91 of the 2024 Tariff Regulations, which deals with Arbitral Award interest, expressly provides as under:

"91. Award of Arbitration: In cases where there is a liability with respect to capital works on account of award of arbitration having principal amount along with interest payment, the principal amount actually paid shall be capitalised.

Provided that any interest amount associated with the arbitration award and actually paid shall be recovered in instalments along with carrying cost at the rate specified under Regulation 10(6) and 10(7) of these Regulations.

Provided further that such number of instalments shall be decided by the Commission on a case-to-case basis depending upon the amount to be reimbursed."

16. The rate of carrying cost is prescribed under Regulation 10(6) of the 2024 Tariff Regulations, reads as under:

"10(6). Subject to Sub-Clause (7) below, the difference between the tariff determined in accordance with clauses (3) and (5) above and clauses (4) and (5) above, shall be recovered from or refunded to, the beneficiaries or the long term customers, as the case may be, with simple interest at the rate equal to the 1 year SBI MCLR plus 100 basis points prevailing as on 1st April of the respective year of the tariff period, in a maximum of six equal monthly instalments;

Provided that the bills to recover or refund shall be raised by the generating company or the transmission licensees within 45 days from the issuance of the Order. Provided further that such interest, including that determined as per sub-clause (7) of this regulation shall be payable till the date of issuance of the Order and no interest shall be allowed or levied during the period of six-monthly instalments."

GROUND RAISED IN THE REVIEW PETITION

17. The Hon'ble Commission, in the Impugned Order by treating the Arbitral Award interest amount of ₹ 984.55 crore as reimbursement instead of additional capitalization and upon failing to allow recovery of the said amount from the beneficiaries along with carrying cost at the simple interest rate equivalent to the

Bank Rate prevailing as on 1st April of the respective years, as mandated under Regulation 13(4) of the 2019 Tariff Regulations has committed an error apparent. The said omission warrants review and appropriate correction by this Hon'ble Commission in the Impugned Order.

18. That this Hon'ble Commission has treated the Arbitral Award interest amount of ₹984.55 crore as a reimbursement however, in doing so, Hon'ble Commission has failed to grant the mandatory carrying cost/interest on the said reimbursements in accordance with the settled principles of restitution and time-value of money and at the rate specified under Regulation 13 (4) of the 2019 Tariff Regulations. The Hon'ble Commission's failure to notice and apply this express statutory provision, is an error apparent on the face of the record. It is settled law that if an order is plainly and obviously inconsistent with a specific and clear provision of the statute, that must inevitably be treated as a mistake of law apparent from the record [*M.K. Venkatachalam v. Bombay Dyeing & Mfg. Co. Ltd.*, (1958) 34 ITR 143].
19. That, it is equally well settled that failure to notice a material statutory provision is a ground for review. The Hon'ble Appellate Tribunal in their judgement dated 27.05.2024 in Review Petition No. 8 of 2018 titled as **Gujarat Urja Vikas Nigam Limited v. Taxus Infrastructure and Power Projects Ltd** noted that '*If the attention of the Court is not drawn to a material statutory provision during the original hearing, the Court will review its judgment... Failure to bring this statutory provision to the notice of this Tribunal would constitute a ground to review the earlier order.*'. The relevant paras from the abovementioned judgement is as under:

A review lies only for correction of a patent error. (Thungabhadra Industries v. Government of A.P., AIR 1964 SC 1372; Mudiki Bhimesh Nanda v. Tirupati Urban Development Authority, (2005) 4 ALD 792; Delhi Administration v. Gurdip Singh Uban, (2000) 7 SCC 296; Vedanta Ltd. v. Odisha ERC, 2023 SCC OnLine APTEL 4). The error contemplated under the rule is not an error which is to be fished out and searched. It must be an error of inadvertence. (Lily Thomas v. Union of India : (2000) 6 SCC 224; Vedanta Ltd. v. Odisha ERC, 2023 SCC OnLine APTEL 4). It must be an error which must strike one merely on looking at the record and not one which requires a long drawn process of reasoning on points where there may conceivably be two opinions. (Meera Bhanja's case (supra); Mudiki Bhimesh Nanda v. Tirupati Urban Development Authority, (2005) 4 ALD 792 (DB)); Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale, AIR 1960

SC 137; Vedanta Ltd. v. Odisha ERC, 2023 SCC OnLine APTEL 4). There can be no review unless the Court is satisfied that there exists a material error manifest on the face of the earlier order resulting in miscarriage of justice. (**Avtar Singh v. Union of India, 1980 Supp SCC 562 : AIR 1980 SC 2041; P. Neelakanteswaramma v. Uppari Muthamma : (1998) 3 AnWR 132 (DB); Vedanta Ltd. v. Odisha ERC, 2023 SCC OnLine APTEL 4).**

...
ix. **FAILURE TO NOTICE A STATUTORY PROVISION:** If the attention of the Court is not drawn to a material statutory provision during the original hearing, the Court will review its judgment (**Girdhari Lal Gupta v. D.H. Mehta:(1971) 3 SCC 189; Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi [(1980) 2 SCC 167; Lily Thomas v. Union of India, (2000) 6 SCC 224).** If the order is plainly and obviously inconsistent with a specific and clear provision of the statute, that must inevitably be treated as a mistake of law apparent from the record. (**M.K. Venkatachalam v. Bombay Dyeing and Mfg. Co. Ltd., (1958) 34 ITR 143).**

...
x. **FAILURE TO NOTICE A BINDING PRECEDENT:** When there is a legal position clearly established by a well-known authority and by some unfortunate oversight, the Judge has gone palpably wrong by the omission of those concerned to draw his attention to the authority, it may be a ground coming within the category of an error apparent on the face of the record. (**M. Murari Rao v. Balavanth Dixit, AIR 1924 Mad 98; Natesa Naicker v. Sambanda Chettiar, AIR 1941 Madras 918; Sri Karutha Kritya Rameswaraswami Varu v. R. Ramalinga Raju, AIR 1960 Andh. Pra. 17; Tinkari Sen v. Dulal Chandra Das, AIR 1967 Cal 518; Medical and Dental College, Bangalore v. M.P. Nagaraj, AIR 1972 Mys. 44; Collector v. Bharat Chandra Bhuyan, 2014 SCC OnLine Ori 478).** Where there is a decision of the Supreme Court holding the field and the High Court (or a statutory tribunal) takes a contrary view, it needs no elaborate argument to point to the error. The error is self-evident. (**Collector v. Bharat Chandra Bhuyan, 2014 SCC OnLine Ori 478).**

Where there is a decision of the Supreme Court bearing on a point and where a Court (or Tribunal) has taken a view on that point which is not consistent with the law laid down by the Supreme Court, it needs no elaborate argument to point to the error and there could reasonably be no two opinions entertained about such an error. Such an error would clearly be an error apparent on the face of the record. (**Selection Committee for Admission to the Medical and Dental College, Bangalore v. M.P. Nagaraj, 1971 SCC OnLine Kar 133 : AIR 1972 Mys 44)**

20. That, the Hon'ble Appellate Tribunal in their judgement dated 18.11.2024 in Review Petition No. 3 of 2024 titled as **Uttar Haryana Bijli Vitran Nigam Limited and Others v. Central Electricity Regulatory Commission and Others** held that failure to notice applicable law, such as the governing statutory

regulations, is a ground for review. In the present case, Regulation 13(4) of the 2019 Tariff Regulations on carrying cost is the directly applicable statutory provision and its non-application is a manifest error on the face of the record.

21. That this Hon'ble Commission ought to have allowed THDCIL the carrying cost on the expense incurred towards Arbitral Award Interest and the CCIE Settlement as Interest/ Carrying Cost on a said expense is nothing but time value for money. The same is also duly provided for in the 2019 Tariff Regulations and in 2024 Tariff Regulations (quoted above). It is a settled principle of law that "When a person is deprived of the use his money to which he is lawfully entitled, he would have a legitimate claim for interest upon such amount of money for the period during which he was deprived of its use." This has been upheld recently by Hon'ble Appellate Tribunal in its decision dated 23.12.2025 in Appeal no. 431 of 2022 in the case of M/s Korba Power Limited v. Haryana Electricity Regulatory Commission and Ors.
22. That the Hon'ble Appellate Tribunal has further held vide their judgement dated 15.09.2025 in Appeal No. 275 of 2015 and batch titled as **Damodar Valley Power Consumers Association and other v. West Bengal State Electricity Regulatory Commission** that "carrying cost is integral to rendering a cost-reflective and equitable tariff". The relevant portions from the judgment are as under:

"191. The subject matter of carrying cost has been a recurring point of contest in the regulatory regime for tariff matters under the Electricity Act, 2003. The central principle underlying the claim for carrying cost is the recognition of the time value of money. It is a well-established concept in regulatory jurisprudence and finds support in multiple judicial pronouncements that when recovery of lawful dues is delayed, the affected party is entitled to appropriate compensation for the intervening period. Equally, in cases where excess recovery is made by a licensee or utility, and the same is subsequently determined to be liable for refund, the affected consumer ought to be compensated for the utility's use of their funds.

*...
195. We note that the regulations are silent on the matter of carrying costs. However, the absence of an express provision does not preclude us from awarding carrying cost in the present context, especially where equity and settled principles of tariff determination require compensation for the time value of money, even the Electricity Act mandates the same as quoted above.*

196. We find the Appellant's submission that carrying cost is integral to rendering a cost-reflective and equitable tariff, referencing both regulatory practice and past precedents where compensation for delay in recovery or refund has been recognized as a necessary incident of the tariff regime. Indeed, the Hon'ble Supreme Court has in multiple cases affirmed the proposition that the effect of delay or excess recovery must be neutralized by awarding interest, the carrying cost at an appropriate rate.

197. Additionally, it is evident that where consumers are made to bear excess tariff or lose the use of their funds due to delayed equilibrium in tariff adjustment, the absence of carrying cost would result in unjust enrichment of the utility at the expense of affected parties. The logical corollary of granting carrying costs to utilities for revenue gaps is to equally and equitably grant such compensation to consumers for surpluses or recoveries due to them

Regulation 13(4) of 2019 Tariff Regulations and Regulation 91 of the 2024 Tariff Regulations read with Regulation 10(6) and (7) expressly provides for carrying cost. It is submitted that in the absence of an explicit provision equity and Section 62(6) of the Electricity Act, 2003 independently mandate compensation for the time value of money.

23. That similarly, the Hon'ble Appellate Tribunal in its decision dated 16.04.2025 in Appeal no. 842 of 2023 in the matter of Essar Power Gujarat Limited (EPGL) v. GERC and others has held as under: -

The principles, culled out from the afore-said judgements, are summarised thus: (i) interest is a natural corollary of any delayed payment, it is the return or compensation for the use or retention by one person of a sum of money belonging to or owed to another, and it is a charge for the use or forbearance of money; (ii) interest is payable in equity even in the absence of any agreement or custom to that effect, though subject to a contrary agreement; a person, deprived of the use of money to which he is legitimately entitled, has a right to be compensated for the deprivation; and Section 34 CPC, which is based upon justice, equity and good conscience, authorizes grant of appropriate interest in the facts and circumstances of each case; and (iii) money not paid in time, but paid subsequently at a much later stage after lapse of several years, loses its real money value to a great extent, and is effectively less money paid; therefore, for equity and restitution, payments made at a later stage, of the amount due in the past, must be compensated by way of appropriate rate of interest so as to compensate for the loss of money value, and to safeguard the interest of the receiving party.

24. That additionally, the Hon'ble Supreme Court in *Uttar Haryana Bijli Vitran Nigam Ltd. v. Adani Power (Mundra) Ltd.*, (2023) 2 SCC 624 (Para 22) has authoritatively held that: "*Interest on carrying cost is nothing but time value for money and the only manner in which a party can be afforded the benefit of restitution in every which way.*" The Hon'ble Court further held that there was no justification for excluding any period between the date of actual expenditure and the date of relief, and that there is no logic to any segregation of timelines, particularly when the claimant has been prompt in raising its claim and pursuing its legal remedies. In the present case, this Hon'ble Commission has similarly erred, as it has allowed the reimbursement of ₹984.55 crore and ₹45.86 lakh but has denied carrying cost for the entire period from the date of actual payment. The exclusion of the period from the date of payment till the date of recovery from the beneficiaries is contrary to the law settled by the Hon'ble Supreme Court in *Uttar Haryana (Supra)*. Further, the Hon'ble Supreme Court in *Uttar Haryana (Supra)* at Para 23 expressly rejected the argument that since no fault is attributable to [the beneficiaries] for the delay caused in determination of the amount, they cannot be saddled with the liability to pay interest on carrying cost.
25. That the Hon'ble Supreme Court in *Uttar Haryana Bijli Vitran Nigam Ltd. v. Adani Power (Mundra) Ltd.*, (2023) 2 SCC 624 at Para 21 has further noted that if the generating company had to arrange finances by borrowing from banks and the banks charged interest on monthly rests (i.e., compounding basis), then any restitution for the same will be incomplete, if it is not fully compensated for the interest paid by it to the banks on compounding basis. In the present case, THDCIL had to pay ₹1460.25 crore (including ₹984.55 crore as interest) under court orders. At the minimum, carrying cost at simple interest as per Regulation 13(4) of the 2019 Tariff Regulations is mandatorily due. The relevant paras from the *Uttar Haryana 2025 Judgment* are as under:
- "21. ...For this, it had to arrange finances by borrowing from banks. The interest rate framework followed by scheduled commercial banks and regulated by Reserve Bank of India mandates that interest shall be charged on all advances at monthly rests. In this view of the matter, Respondent 1 Adani Power is justified in stating that if the banks have charged it interest on monthly rest basis for giving loans to purchase the FGD unit, any restitution will be incomplete, if it is not fully compensated for the interest paid by it to the banks on compounding basis.*

22. *We are of the opinion that interest on carrying cost is nothing but time value for money and the only manner in which a party can be afforded the benefit of restitution in every which way.....*

23. *We are not persuaded by the submission made on behalf of the appellants that since no fault is attributable to them for the delay caused in determination of the amount, they cannot be saddled with the liability to pay interest on carrying cost; nor is there any substance in the argument sought to be advanced that there is no provision in the PPAs for payment of compound interest from the date when the change in law event had occurred."*

26. That THDCIL paid ₹450 Crore on 27.01.2020 and ₹1010.25 Crore on 31.08.2023, both under compulsion of court orders. The carrying cost on the interest amount of ₹984.55 Crore was paid/is being paid from THDCIL's own funds till the date of recovery from the beneficiaries. Similarly, the Impugned Order has allowed the recovery of ₹45.86 lakh (interest paid to M/s Patel Engineering under the CCIE mechanism) as a one-time reimbursement from the beneficiaries, under the power to relax. However, no carrying cost has been granted on this amount either. Despite THDCIL having paid the above amounts, it has been deprived of the use of this money since the date of payment. Further, had the total Arbitral Award amount, including the associated interest component of Rs. 1460.25 Crore, been considered by the Hon'ble Commission as additional capitalization in terms of Regulation 25(1)(a) of the Tariff Regulations, 2019, the carrying cost on the interest component, as claimed in the Petition, would have been recovered through the Annual Fixed Charges (AFC) over the balance useful life of the project. However, the Hon'ble Commission has not considered the associated Arbitral Award interest component as part of additional capitalization, which has resulted in a shortfall in recovery of the total amount paid by THDCIL through drawl of short-term loans from financial institutions. The Hon'ble Commission's failure to grant carrying cost on this reimbursement constitutes an error apparent on the face of the record, given the unambiguous statutory and jurisprudential framework governing the grant of interest on delayed restitution.
27. That it is further submitted that otherwise, there exists sufficient cause for review of the Impugned Order. The Hon'ble Supreme Court in **Board of Control for Cricket in India v. Netaji Cricket Club**, (2005) 4 SCC 741 has held that the expression 'sufficient reason' in Order 47 Rule 1 of the CPC is wide enough to

include 'a misconception of fact or law by a court or even an advocate.' In the instant case, the Hon'ble Commission has proceeded on the erroneous footing that carrying cost need not be expressly granted, whereas Regulation 13(4) of the 2019 Tariff Regulations mandatorily provides for the same.

28. That further, the Hon'ble Supreme Court in Lily Thomas v. Union of India, (2000) 6 SCC 224, has held: 'Law has to bend before justice. If the Court finds that the error pointed out in the review petition was under a mistake and the earlier judgment would not have been passed but for erroneous assumption which in fact did not exist and its perpetration shall result in a miscarriage of justice nothing would preclude the Court from rectifying the error.'
29. That, THDC was prompt in pursuing all its legal remedies, including by filing Petition No. 60/GT/2024 for interim truing up under Regulations 13(3), 76, and 77 of the 2019 Tariff Regulations to recover the substantial liabilities arising from the arbitration award dated 17.12.2010 as upheld by the Hon'ble Delhi High Court vide its orders dated 13.12.2019, 12.7.2023, and 28.7.2023. Despite the same, non-consideration of carrying cost, THDCIL is being penalized for the enormous outflow of funds occasioned entirely by judicial orders. This would result in manifest injustice and miscarriage of justice.

Computation of Carrying Cost

30. That this Hon'ble Commission may be pleased to compute and allow the carrying cost on the said reimbursements (Arbitral Award Interest and CCIE Settlement Interest) as follows:
- (a) On ₹984.55 crore (Arbitral Award Interest): Carrying cost from the date of actual payment (i.e., ₹450 crore from 27.01.2020 and ₹1010.25 crore from 31.08.2023 respectively to the extent relatable to the interest amount) till the date of presentation of bill of carrying cost to the beneficiaries, in terms of Regulation 13(4) of the 2019 Tariff Regulations.
- (b) On ₹45.86 lakh (CCIE Settlement Interest): Carrying cost from the date of actual payment in FY 2023-24 i.e. on 10.11.2023 till the date of

presentation of bill of carrying cost to the beneficiaries, in terms of Regulation 13(4) of the 2019 Tariff Regulations.

(c) Alternatively, compute the carrying cost on the above amounts at the rate specified in Regulation 91 read with Regulations 10(6) and 10(7) of the 2024 Tariff Regulations or such other rate that this Hon'ble Commission considers suitable and proper.

31. The Review Petitioner has not filed any other Review Petition or Appeal before any other Forum or Court of Law in respect of the Impugned Order dated 31.03.2026 in Petition No. 485/GT/2024.
32. It is submitted that the THDCIL is not attaching the entire pleadings of Petition No. 485/GT/2024 for the sake of brevity, however it is most humbly requested that this Hon'ble Commission allow THDCIL to refer to Petition No. 485/GT/2024 as and when the need arises during the course of the proceedings.
33. The Review Petitioner has paid the requisite filing fees.

LIMITATION

34. It is stated that the Order dated 31.03.2026 passed in Petition No. 485/GT/2024 was uploaded on the website of this Hon'ble Commission on 31.03.2026. The Review Petition has been filed within the prescribed period of 40 days as per Regulation 52(2) of the CERC (Conduct of Business) Regulations, 2023.

D. PRAYER:

35. It is, therefore, most respectfully prayed that this Hon'ble Commission may be pleased to:
 - (a) Admit the present Review Petition;
 - (b) Allow the Review Petition and modify the Order dated 31.03.2026 passed in Petition No. 485/GT/2024 to the extent mentioned above;
 - (c) Direct grant of carrying cost/interest on the reimbursement of ₹984.55 crore (Arbitral Award interest) (i.e., ₹450 Crore from 27.01.2020 and ₹1010.25 crore from 31.08.2023 respectively to the extent relatable to the interest amount) in 36 monthly installments from the date of actual payment of the

- said amount till the date of presentation of bill of carrying cost to the beneficiaries in terms of Regulation 13(4) of the 2019 Tariff Regulations;
- (d) Direct grant of carrying cost/interest on the reimbursement of ₹45.86 lakh (CCIE Settlement interest) from the date of actual payment i.e. on 10.11.2023 till the date of presentation of bill of carrying cost to the beneficiaries in terms of Regulation 13(4) of the 2019 Tariff Regulations;
- (e) Alternatively, compute the carrying cost on the above amounts at the rate specified in Regulation 91 read with Regulations 10(6) and 10(7) of the 2024 Tariff Regulations or such other rate that this Hon'ble Commission considers suitable and proper;
- (f) Pass any such further order or orders as this Hon'ble Commission may deem just and proper in the circumstances of the case.

E. ANNEXURES

As per Index.

F. PROOF OF PAYMENT OF FEES FOR FILING OF THE PETITION

THDCIL has deposited the requisite filing fee in accordance with CERC (Payment of Fees) Regulations, 2012 & details of the same are being filed in Form-I accompanied with this Petition.



Review Petitioner(s)

नीरज कुमार

NEERAJ KUMAR

रापर महाप्रबंधक (वित्त) AGM (Finance)

वाणिज्यिक/पवर ट्रेडिंग सेल/Commercial/Power Trading Cell

थीएचडीसी इंडिया लिमिटेड, ऋषिकेश

THDC INDIA LIMITED, RISHIKESH

DECLARATION

The Review Petitioner above named hereby solemnly declares that nothing material has been concealed or suppressed and further declares that the enclosures and typed set of material papers relied upon and filed herewith are true copies of originals/fair representation of the originals/true translations thereof.

Verified at Rishikesh on this 6th day of May'2026.



Review Petitioner(s)

नीरज कुमार

NEERAJ KUMAR

अपर महाप्रबंधक (वित्त) AGM (Finance)

वाणिज्यिक/पार ट्रेडिंग सेल/Commercial/Power Trading Cell

टीएचडी लिमिटेड इंडिया लिमिटेड, रीशिकेश

THDC INDIA LIMITED, RISHIKESH

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 485/GT/2024

Coram:

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

Date of Order: 31st March, 2026

In the matter of:

Petition for truing up of tariff for 2019-24 tariff and determination of 2024-29 tariff in respect of Koteshwar Hydro Electric Project (KHEP) (4x100MW).

And

In the matter of:

THDC India Limited,
NHPC Office Complex, Sector – 33,
Faridabad (Haryana) – 121 003

... Petitioner

Vs

1. Punjab State Power Corporation Limited,
The Mall, Patiala – 147001 (Punjab)
2. Haryana Power Utilities (DHBVNL & UHBVNL),
Shakti Bhawan, Sector 6, Panchkula – 134 109 (Haryana)
3. Uttar Pradesh Power Corporation Limited,
Shakti Bhawan, 14 Ashok Marg, Lucknow – 226001 (UP)
4. BSES Yamuna Power Ltd., 3rd Floor,
Shakti Kiran Building, Karkardooma, Near Court, New Delhi-110092
5. TATA Power Delhi Distribution Limited,
33 KV Grid Sub-Station Building, Hudson Lane,
Kingsway Camp, Delhi-110009
6. Engineering Dept., Chandigarh Administration,
1st Floor, UT Secretariat, Sector 9-D, Chandigarh-160009
7. Uttarakhand Power Corporation Limited,
Urja Bhawan, Kanwali Road, Dehradun-248001 (UK)

8. HPSEB Limited,
Vidyut Bhawan, Shimla-171004 (HP)
 9. Jaipur Vidyut Vitran Nigam Limited,
Vidyut Bhawan, Janpath, Jyotinagar, Jaipur-302005 (Rajasthan)
 10. Ajmer Vidyut Vitran Nigam Limited,
Old Power House, Hatthi Bhatta, Jaipur road, Ajmer-305001 (Rajasthan)
 11. Jodhpur Vidyut Vitran Nigam Limited,
New Power House, Industrial Area, Jodhpur-342003 (Rajasthan)
 12. Power Development Department,
Govt. of J&K, Civil Secretariat, Jammu -180001 (J&K)
 13. Madhya Pradesh Power Management Company Limited,
3rd Floor, Block No. 11, Shakti Bhawan, Rampur, Jabalpur- 482008 (MP)
 14. Rajasthan Urja Vikas and IT Services Nigam Limited,
Vidyut Bhawan, Jyoti Nagar, Jaipur- 302005 (Rajasthan)
 15. Jammu and Kashmir State Power Trading Company Limited,
PDD Complex, Bemina, Srinagar -190010 (J&K)
 16. Gujarat Urja Vikas Nigam Limited,
Sadar Patel, Vidyut Bhawan, Race Course, Vadodara, Gujarat -390007
 17. Bihar State Power Holding Company Limited,
5th Floor, Vidyut Bhawan, JLN Marg, Patna, Bihar-800 021
 18. New Delhi Municipal Council
Palika Kendra, Sansad Marg, New Delhi-110102
- ... Respondent(s)

Parties Present:

Ms. Anushree Bardhan, Advocate, THDC
Shri Anand K. Ganesan, Advocate, PSPCL
Shri Amal Nair, Advocate, PSPCL
Ms. Devyani Prasad, Advocate, PSPCL
Shri Mohit K. Mudgal, Advocate, BRPL
Shri Sachin Dubey, Advocate, BRPL
Ms. Harshita Verma, Advocate, BRPL

ORDER

This petition has been filed by the Petitioner, Tehri Hydro Development Corporation Ltd (THDC), for truing up of tariff of Koteshwar Hydroelectric Project (4 x



100 MW) (in short, "the generating station") for the period 2019-24 in accordance with the provisions of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (in short, "the 2019 Tariff Regulations") and for determination of tariff of the generating station for the period 2024-29, in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2024 (in short "the 2024 Tariff Regulations").

Background

2. The Petitioner is a joint venture company of the Government of India (GOI) and the Government of Uttar Pradesh, with GOI holding the majority and controlling shares. The generating station is a part of the Tehri Hydro Power Complex with an aggregate capacity of 2400 MW, which comprises Tehri HPP Stage-I (1000 MW), Tehri Pumped Storage Plant (1000 MW) and downstream power station Koteshwar Hydroelectric Project (400 MW) in Tehri Garhwal district in the State of Uttarakhand. The Koteshwar reservoir is designed to function as a lower reservoir for the Tehri Pumped Storage Plant and to regulate the water releases from the main Tehri reservoir for irrigation and drinking water requirements. The power allocation from the generating station had been notified on 8.8.2007 by the Ministry of Power (MOP), Government of India (GOI). The Petitioner has entered into Power Purchase Agreements with the Respondents for the capacity generated from the project. The generating station with a total capacity of 400 MW comprises four units of 100 MW each, and the dates of commercial operation of the units of the generating station are as under:

Units	COD
Unit I	1.4.2011
Unit II	26.10.2011
Unit III	13.2.2012
Unit IV	1.4.2012



3. Petition No. 245/GT/2020 was filed by the Petitioner for the truing up of tariff of the generating station for the period 2014-19, and the Commission vide its order dated 14.9.2022 approved the annual fixed charges and the capital cost of the generating station. The Commission had determined the tariff of the generating station for the period 2019-24 on the basis of projected additional capital expenditure vide order dated 3.10.2022 in Petition No. 244/GT/2020 as follows:

Capital Cost allowed

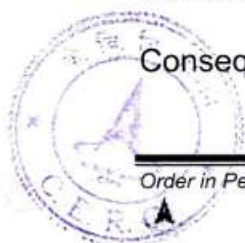
	<i>(Rs. In lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Capital Cost	286012.08	287555.76	287915.47	288166.54	288171.17
Net Additional capital expenditure allowed during the year/ period	1543.67	359.72	251.07	4.63	1.25
Closing Capital Cost	287555.75	287915.47	288166.54	288171.17	288172.42

Annual Fixed Charges allowed

	<i>(Rs. in lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	13527.67	13602.34	13625.22	13636.41	13636.81
Interest on Loan	11235.24	10050.09	8815.73	7592.94	6318.33
Return on Equity	13203.80	13248.51	13265.47	13273.30	13273.47
Interest on Working Capital	1323.48	1255.05	1187.34	1205.83	1223.05
O&M Expenses	17268.39	18091.63	18954.12	19857.71	20804.39
Total	56558.59	56247.63	55847.87	55566.19	55256.07

4. Subsequently, the Petitioner had filed Petition No. 60/GT/2024 before the Commission seeking interim truing up and revision of the tariff for the generating station for the period 2019-24 under Regulations 13(3), 76, and 77 of the 2019 Tariff Regulations, primarily to recover substantial liabilities amounting to Rs.1460.25 crore, including principal and interest arising from an arbitration award dated 17.12.2010 in a contract dispute which was upheld by the Hon'ble Delhi High Court vide its orders dated 13.12.2019, 12.7.2023, and 28.7.2023. In furtherance of the same, the Petitioner deposited the amount with the Registry of the Hon'ble High Court.

Consequently, the Commission revised the annual fixed charges and the capital cost



by allowing the additional capitalization of the principal amount of Rs. 475.70 crore for the period 2023-24 and also directed that the interest amount of Rs. 984.55 crore will be considered at the time of true-up of tariff in terms of the Regulation 13(1) of the 2019 Tariff Regulations. In terms of the above, the Commission revised the tariff of the generating station for the period 2019-24 as under:

Revised Capital Cost allowed

	<i>(Rs. In lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Opening capital cost (A)	286012.08	287555.75	287915.47	288166.54	288171.17
Net Additional capital expenditure allowed during the year (B)	1543.67	359.72	251.07	4.63	47571.38
Closing capital cost (C=A+B)	287555.75	287915.47	288166.54	288171.17	335742.55

Revised Annual Fixed Charges allowed

	<i>(Rs. In lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	13527.67	13602.34	13625.22	13636.41	14762.37
Interest on loan	11235.24	10050.09	8815.73	7592.94	7822.44
Return on Equity	13203.80	13248.51	13265.47	13273.30	14700.08
O&M Expenses	17268.39	18091.63	18954.12	19857.71	20804.39
Interest on Working Capital	1323.48	1255.05	1187.34	1205.83	1276.10
Total	56558.59	56247.63	55847.87	55566.19	59365.38

Present Petition

5. In terms of Regulation 13 of the 2019 Tariff Regulations, the Petitioner has filed the present petition for the true-up of the tariff of the generating station, based on the actual additional capital expenditure incurred for the period 2019-24. The capital cost and the annual fixed charges claimed by the Petitioner are as under:

Capital Cost claimed

	<i>(Rs. In lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Opening capital cost	286012.08	287293.16	288064.50	288592.26	288576.05
Add: additional during the year	919.09	712.74	470.58	47.89	150219.46
Less: De – capitalisation during the year	0.81	0.86	0.00	67.40	4.08
Less: Reverse during the year	0.00	0.00	0.00	0.00	0.00

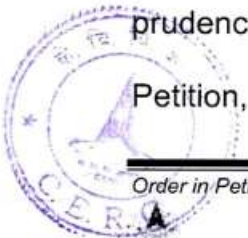
Add: Discharges during the year	362.80	59.46	57.18	3.29	35.33
Closing capital cost	287293.16	288064.50	288592.26	288576.05	438826.75
Average capital cost	286652.62	287678.83	288328.38	288584.16	363701.40

Annual Fixed Charges claimed

	<i>(Rs. In lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	13616.27	13649.24	13831.74	13678.47	16901.01
Interest on loan	11193.95	10446.71	10163.33	8173.54	11334.38
Return on Equity	13190.10	13227.22	13259.06	13262.93	17710.71
Interest on Working Capital	1407.08	1319.39	1276.04	1304.01	1628.42
O&M Expenses	19175.18	19527.13	20757.26	22233.94	21670.39
Total	58582.58	58169.70	59287.43	58652.89	69244.90

6. The Petition was heard on 22.7.2025. The Petitioner, in response to the Commission's technical validation letter dated 4.7.2025, had furnished additional information vide affidavit dated 26.8.2025. The Respondents Punjab State Power Corporation Limited ("PSPCL"), Jaipur Vidyut Vitran Nigam Ltd., Ajmer Vidyut Vitran Nigam Ltd, Jodhpur Vidyut Vitaran Nigam Limited and Rajasthan Urja Vikas and IT Services Ltd (collectively referred to as "RUVITL") and BSES Rajdhani Power Limited (BRPL) have filed their respective replies to the Petition vide affidavits dated 4.8.2025, 13.5.2025 and 10.12.2025 respectively and the Petitioner has submitted its rejoinders to the said replies vide affidavits dated 17.9.2025, 1.9.2025 and 18.12.2025 respectively. Pursuant to the hearing dated 23.9.2025, the Petitioner was directed to submit certain additional information, and the Commission reserved its order in the petition. In compliance with the directions of the Commission, the Petitioner had filed the additional information vide affidavit dated 7.11.2025

7. Based on the submissions of the parties and documents available on record, we proceed for truing up of tariff for the generating station for the period 2019-24, after prudence check along with determination of tariff for the period 2024-29, in this Petition, as stated in the subsequent paragraphs.



Capital Cost

8. Regulation 19 of the 2019 Tariff Regulations provides as under:

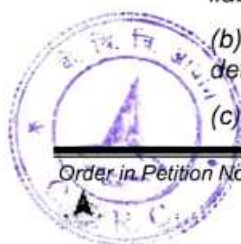
“19. Capital Cost: (1) The Capital cost of the generating station or the transmission system, as the case may be, as determined by the Commission after prudence check in accordance with these regulations shall form the basis for determination of tariff for existing and new projects.

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

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

(3) The Capital cost of an existing project shall include the following:

- (a) Capital cost admitted by the Commission prior to 1.4.2019 duly trued up by excluding liability, if any, as on 1.4.2019;
- (b) Additional capitalization and de-capitalization for the respective year of tariff as determined in accordance with these regulations;
- (c) Capital expenditure on account of renovation and modernisation as admitted by this



Commission in accordance with these regulations;

(d) Capital expenditure on account of ash disposal and utilization including handling and transportation facility;

(e) Capital expenditure incurred towards railway infrastructure and its augmentation for transportation of coal up to the receiving end of generating station but does not include the transportation cost and any other appurtenant cost paid to the railway;

(f) and Capital cost incurred or projected to be incurred by a thermal generating station, on account of implementation of the norms under Perform, Achieve and Trade (PAT) scheme of Government of India shall be considered by the Commission subject to sharing of benefits accrued under the PAT scheme with the beneficiaries.

(4) The capital cost in case of existing or new hydro generating station shall also include:

(a) cost of approved rehabilitation and resettlement (R&R) plan of the project in conformity with National R&R Policy and R&R package as approved; and

(b) cost of the developer's 10% contribution towards Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY) and Deendayal Upadhyaya Gram Jyoti Yojana (DDUGJY) project in the affected area.

(5) The following shall be excluded from the capital cost of the existing and new projects:

(a) The assets forming part of the project, but not in use, as declared in the tariff petition;

(b) De-capitalised Assets after the date of commercial operation on account of replacement or removal on account of obsolescence or shifting from one project to another project: Provided that in case replacement of transmission asset is recommended by Regional Power Committee, such asset shall be 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 assets.

(c) In case of hydro generating stations, any expenditure incurred or committed to be incurred by a project developer for getting the project site allotted by the State Government by following a transparent process;

(d) Proportionate cost of land of the existing project which is being used for generating power from generating station based on renewable energy; and

(e) Any grant received from the Central or State Government or any statutory body or authority for the execution of the project which does not carry any liability of repayment."

9. Clause (1) of Regulation 19 of the 2019 Tariff Regulations provides that the capital cost as determined by the Commission, after a prudence check, in accordance with the Regulation, shall form the basis of the determination of the tariff for existing and new projects. The Petitioner has claimed the opening capital cost of Rs. 286012.08 lakh as allowed by the Commission vide Order dated 14.9.2022 in Petition No. 245/GT/2020. Subsequently, on account of interim truing up, the opening capital cost of Rs. 286012.08 lakh as on 1.4.2019, has been approved vide the Commission's order dated 8.11.2024 in Petition No. 60/GT/2024.



10. Accordingly, the capital cost of Rs. 286012.08 lakh has been considered as the opening capital cost as on 1.4.2019 for the purposes of truing up the tariff of the generating station, for the period 2019-24.

Additional Capital Expenditure

11. Regulations 25(1) & (2) and 26(1) of the 2019 Tariff Regulations, provide as under:

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

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

- a) Liabilities to meet award of arbitration or for compliance of the directions or order of any statutory authority, or order or decree of any court of law;
- b) Change in law or compliance of any existing law;
- c) Deferred works relating to ash pond or ash handling system in the original scope of work;
- d) Liability for works executed prior to the cut-off date;
- e) Force Majeure events;
- f) Liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments; 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 capitalisation may be admitted by the Commission, after making necessary adjustments in the gross fixed assets and the cumulated depreciation, subject to prudence check on the following grounds:

- a) The replacement of the assets or equipment is necessary on account of change in law or Force Majeure conditions;
- b) The replacement of such assets or equipment is necessary on account of obsolescence of technology; and
- c) The replacement of such assets or equipment has otherwise been allowed by the Commission.

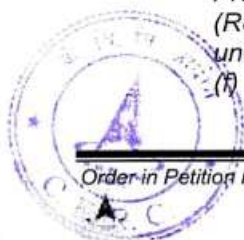
26. Additional Capitalisation beyond the original scope

(1) The capital expenditure, in respect of existing generating station or the transmission system including communication system, incurred or projected to be incurred on the following counts beyond the original scope, may be admitted by the Commission, subject to prudence check:

- (a) Liabilities to meet award of arbitration or for compliance of order or directions of any statutory authority, or order or decree of any court of law;
- (b) Change in law or compliance of any existing law;
- (c) Force Majeure events.
- (d) Need for higher security and safety of the plant as advised or directed by appropriate Indian Government Instrumentality or statutory authorities responsible for national or internal security.
- (e) Deferred works relating to ash pond or ash handling system in additional to the original scope of work, on case-to-case basis:

Provided also that if any expenditure has been claimed under Renovation and Modernisation (R&M) or repairs and maintenance under O&M expenses, the same shall not be claimed under this Regulation.

- (f) Usage of water from sewage treatment plant in thermal generating station.



(2) In case of de-capitalisation of assets of a generating company or the transmission licensee, as the case may be, the original cost of such asset as on the date of decapitalisation shall be deducted from the value of gross fixed asset and corresponding loan as well as equity shall be deducted from outstanding loan and the equity respectively in the year such de-capitalisation takes place with corresponding adjustments in cumulative depreciation and cumulative repayment of loan, duly taking into consideration the year in which it was capitalised."

12. Regulations 25 and 26 of the 2019 Tariff Regulations, inter alia, provide that the application for determination of tariff shall be based on admitted capital cost, including any additional capital expenditure already admitted up to 31.3.2019 (either based on actual or projected additional capital expenditure) and estimated additional capital expenditure for the respective years of 2019-24. The projected additional capital expenditure allowed for the period 2019-24 in the order dated 8.11.2024 in Petition No. 60/GT/2024, and the actual expenditure claimed by the Petitioner are as under:

	<i>(Rs. in lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Projected additional capital expenditure allowed in order dated 8.11.2024 in Petition No. 60/GT/2024	1543.67	359.72	251.07	4.63	47571.38
Net actual additional capitalisation claimed in this Petition	1281.08	771.34	527.76	(-)16.22	150250.71

13. The Petitioner has submitted that there are certain capital expenditures, which were not projected earlier, but had been incurred by the Petitioner, due to site-specific requirements, which were essential for safe, secure, successful and efficient operation of the generating station and the same is required to be included as part of the capital base for the purpose of tariff. The additional capital expenditure claimed by the Petitioner under various heads, duly supported by an auditor's certificate, for the period 2019-24, is as under:

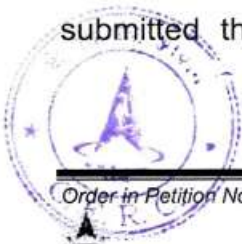
	<i>(Rs. in lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Additional capital expenditure within the original scope	0.00	0.00	0.00	0.00	146025.00

Additional capital expenditure beyond the scope	919.09	712.74	470.58	47.89	4194.46
Total Capital expenditure claimed	919.09	712.74	470.58	47.89	150219.46

14. The Petitioner has also claimed actual additional capital expenditure in respect of some new assets/ works, which were not projected earlier, and there are certain works/ items which were allowed earlier and are not claimed herein. The Petitioner, vide affidavit dated 26.8.2025, has also submitted that, after capitalisation, the actual completion cost has changed. Hence, there is a variation between the actual additional capital expenditure claimed and the projected additional capital expenditure allowed, as per the order dated 3.10.2022 in Petition No. 244/GT/2020.

15. The Respondents have mainly sought the disallowance of the additional capital expenditure works claimed by the Petitioner such as IT equipment, civil stabilisation works, safety enhancements, and arbitration-related costs under Regulations 25 and 26 of the 2019 Tariff Regulations during the period 2019-24. The Respondents, PSPCL and BRPL, in their reply, have objected to various claims as mentioned above, citing lack of justification, documentation, or compliance with regulatory thresholds, asserting many are routine O&M expenses, repetitive, or outside the original scope, and should not burden beneficiaries with inefficiencies or non-essential expenditures like recreational infrastructure. Further, PSPCL has submitted that de novo claims beyond Petition No. 244/GT/2020, including additional capital expenditure related to safety and efficiency, may be allowed if mandated by a competent government/statutory authority.

16. The Petitioner, vide its rejoinder, has responded to the said replies and has submitted that the additional capital expenditure claimed is duly supported by



documentary proofs and is in line with the order dated 3.10.2022 in Petition No. 244/GT/2020.

17. After considering the submissions of the Petitioner and the Respondents and after exercising a prudence check, the objections raised by the Respondents and the response of the Petitioner are dealt with in the subsequent paragraphs.

18. The Petitioner has claimed additional capital expenditure which was allowed by the commission vide order dated 3.10.2022 in Petition No. 244/GT/2020. The matter has been considered, based on the submissions of the Petitioner, the claimed additional capital expenditure of such nature is hereby allowed.

19. The Petitioner has also claimed additional capital expenditure, such as the construction of a check post at KHEP, a water tank at the fire station, a door frame metal detector, etc., under 26(1)(d) of the 2019 Tariff Regulations. Considering the fact that the claimed additional capitalisation of expenditure is to be incurred on account of the need for higher safety and security of the plant as advised and directed by the appropriate government agencies or statutory authorities responsible for national/internal security, the claimed capital expenditure is hereby allowed. However, claims pertaining to minor nature, such as accounting software, printer, air conditioner, etc., are hereby not allowed for capitalisation.

20. Further, the Petitioner has also claimed additional capital expenditure other than the above claims, such as a digital earth resistance tester switchyard, air conditioner, doorframe metal detector, Mahindra Bolero, rack server for the IT department, temporary sheds, etc. Since the additional capital expenditure incurred is towards assets which are minor in nature and in the nature of tools and tackles, after the cut-off date and O&M-related activities which are not permissible for capitalisation and are to be met through O&M expenses, these claims are hereby not allowed.

Arbitration/Court cases

THDCIL Vs M/s PCL-ILC JV matter

21. The Petitioner has claimed additional capital expenditure of Rs.1460.25 crore under Regulation 25(1)(a), 76(Power to Relax) and 77(Power to Remove Difficulty) for the year 2023-24, on account of the liability incurred owing to the Arbitral award dated 17.12.2010 read with orders dated 13.12.2019, 12.7.2023 and 28.7.2023 of the Hon'ble Delhi High Court. In this regard, the Petitioner had filed Petition No. 60/GT/2024 seeking a revision of the tariff for the generating station for the period 2019-24 through an interim true-up exercise. The Petitioner, vide the said Petition, had invoked the Commission's power to relax or remove difficulties under Regulations 76 and 77 of the 2019 Tariff Regulations.

22. In view of the amount paid and considering the financial liability upon the Petitioner, the Commission, vide order dated 8.11.2024 in Petition No. 60/GT/2024, exercising its powers under Regulation 76 of the 2019 Tariff Regulations, allowed the interim truing up of tariff. The relevant excerpt of the order dated 8.11.2024 is reproduced below:

"22. In the present case, a total amount of Rs. 1460.25 crore, which includes the Principal amount of Rs. 475 crore and the interest amount of Rs. 984.55 crore, deposited by the Petitioner as per the Arbitral award dated 13.12.2019 read with the orders of the Hon'ble Delhi High Court has been claimed by the Petitioner. It is noticed from the records that against the order dated 12.7.2023 of the learned Single Bench of the Hon'ble Delhi High Court dismissing the appeal filed by the Petitioner challenging the Arbitral award dated 17.12.2010, the Petitioner had filed an appeal before the Division Bench of the Hon'ble Delhi High Court and the same was also rejected vide judgment dated 24.4.2024. Against this judgment, the Petitioner has filed SLP before the Hon'ble Supreme Court, wherein the Hon'ble Court on 27.7.2024, stayed the execution proceedings (filed by contractor) for recovery amount and the matter is pending. The Respondents TPDDL and BRPL on the one hand referred to the pending appeal and submitted that the Petitioner only claim the expenditures after a final decision of the Hon'ble Supreme Court, they had, on the other, submitted that the burden of the interest amount paid by the Petitioner, is on account of procedural delays on the part of the Petitioner and cannot therefore be imposed on the Respondent beneficiaries. In our considered view, Regulation 25(1)(a) of the 2019 Tariff Regulations provides for the admission of the additional expenditure incurred to meet the liabilities of award of arbitration or for compliance with the directions or order of any statutory authority or order or decree of any court of law. Since the arbitral award is pending consideration of the Hon'ble Supreme Court in the appeal filed by the Petitioner, we find no reason to entertain the submission of the Respondents that the additional cost (levy of interest) incurred is on account of the Petitioner's own fault. Nevertheless, keeping in view that the matter is being decided now, it is observed that the Petitioner has not claimed additional capitalization



for the period 2019-23 and claimed additional capitalization of Rs. 1460.25 crore in the year 2023-24. Considering the submissions and deliberations as mentioned above, we are inclined to allow the additional capitalization of only the Principal amount of Rs 475.70 crore in 2023-24 on account of meeting the liabilities of the arbitral award dated 17.12.2010 read with the orders dated 13.12.2019, 12.7.2023 and 28.7.2023 of the Hon'ble Delhi High Court, under Regulation 25(1)(a) of the 2019 Tariff Regulations. We direct accordingly. The balance amount of Rs 984.55 crore shall, however, be considered at the time of truing-up of the tariff of the generating station in the petition to be filed by the Petitioner in terms of Regulation 13(1) of the 2019 Tariff Regulations read with the relevant provisions of the Tariff Regulations."

23. The Commission had allowed the additional capitalisation to the extent of principal amount of Rs. 475.70 crore in 2023-24 for meeting the liabilities of the arbitral award read with the directions of the Hon'ble Delhi High Court, under Regulation 25(1)(a) of the 2019 Tariff Regulations. Furthermore, the Commission had granted the Petitioner liberty to approach the Commission at the time of truing up in relation to the balance amount of Rs. 984.55 crore.

24. As on date, the arbitral award is pending consideration before the Hon'ble Supreme Court in the Civil Appeal No. 8357 of 2024, preferred by the Petitioner challenging the execution proceedings filed by the contractor. The said execution proceedings have been stayed by the Hon'ble Supreme Court vide order dated 26.7.2024.

25. The Respondents, PSPCL, RUVITL and BRPL, in their replies have objected to the additional capital expenditure of Rs. 1460.25 crore sought by the Petitioner towards arbitral award and have highlighted that the Hon'ble Supreme Court is yet to take a final view in the Civil Appeal No. 8357 of 2024, and in the interregnum it would not be reasonable to pass the financial impact of arbitral award onto to the beneficiaries.

26. The Petitioner, in its rejoinder, has clarified that it has provided all the justifications along with documentary proof towards the arbitral award as part of 60/GT/2024. The Petitioner has also submitted that the Commission has provided



similar dispensation in its orders with respect to other generators. Further, the Petitioner has submitted that the claims with regard to the award of arbitration have been duly recognised under Regulation 91 of the 2024 Tariff Regulations.

27. The matter has been considered. The Commission, vide order dated 8.11.2024 in Petition No. 60/GT/2024, had allowed the principal amount of Rs. 475.70 crore (out of total claim of Rs. 1460.25 crore) in 2023-24 to meet the arbitral award and had granted an opportunity to the Petitioner to claim the remaining amount at the time of truing up of the period 2019-24.

28. It is pertinent to note that the said order had only considered Rs 475.70 crore, i.e., principal amount against the total arbitral award of Rs 1460.25 crore. However, the Petitioner had deposited the entire arbitration award of Rs. 1460.25 crore in accordance with the orders of the Hon'ble Delhi High Court (a). Rs. 450 crore vide order dated 13.12.2019, (b). Rs.1010.25 crore as per the order dated 28.7.2023 before the Registrar, Delhi High Court. As on date, the matter is pending for a final view vide Civil Appeal No. 8357 of 2024 before the Hon'ble Supreme Court.

29. However, considering the enormity of the interest payment of the entire arbitration amount as well as the pendency of the civil appeal before the Hon'ble Supreme Court, we are of the view that the interest amount cannot form part of the capital cost and is more appropriately treated as a reimbursement. Further, since the interest amount would be recoverable by the Petitioner during the period 2024-29, we deem it appropriate to allow the recovery of Rs. 984.55 Crore of interest expense in 36 monthly instalments from the beneficiaries under the powers to relax. However, the final admissibility of the arbitration amount shall remain subject to the outcome of the proceedings pending before the Hon'ble Supreme Court.



Claim settlement through CCIE mechanism (Vivad Se Vishwas)

30. The Petitioner has sought Rs. 3687.75 lakh (Rs. 3641.89 lakh as additional capital expenditure and Rs. 45.86 lakh as interest charges) under Regulation 26(1)(a) of the 2019 Tariff Regulations during the year 2023-24. In justification of the same, the Petitioner has stated that in terms of the dispute avoidance mechanism by way of constituting the Conciliation Committee of Independent Experts ("CCIE") for the settlement of disputes arising in contracts of Hydro CPSUs, the dispute between M/s Patel Engineering and the Petitioner was referred to CCIE on the request of M/s Patel Engineering.

31. In view of the said mechanism, the Petitioner has made payment of Rs. 3687.75 lakh to M/s Patel Engineering and has prayed for Rs. 3641.89 lakh as additional capital expenditure during 2023-24 and Rs. 45.86 lakh as interest charges to be allowed as additional O&M expense for the year 2023-24.

32. The Petitioner has also stated that the order dated 3.10.2022 in Petition No. 244/GT/2020 had allowed additional capital expenditure amounting to Rs.519.63 lakh for works relating to - (a) finishing work of powerhouse wall cladding, false ceiling and flooring; (b) seepage channelization and other works of MAT; (c) stabilization work of right bank dump muck pile, KHEP; (d) stabilization work of left bank slope protection works; and (e) strengthening measure of plugging of diversion tunnel. The Petitioner has submitted that the said order had granted the Petitioner liberty to claim the balance amount at the time of truing up.

33. The Respondents, PSPCL and RUVITL, in their respective replies, have objected to the claims with respect to the above works and have also submitted that the above works are considerably inflated in comparison to the amount allowed by the order dated 3.10.2022 in Petition No. 244/GT/2020. PSPCL has also highlighted that the Petitioner has not placed on record any documentary proof to demonstrate



whether the CCIE decision has been challenged or if any relief is being availed by the Petitioner. Further, the Respondent, BRPL, has submitted that the claim is made by the Petitioner over and above the O&M expense and the same may be borne from the RoE as it was part of the dispute settlement between the generator and the contractor.

34. The Petitioner has submitted that the dispute with M/s Patel Engineering had been referred to CCIE in terms of various orders and directions of MOP, which mandate diminishing of exorbitant legal costs and timely resolution of disputes. The Petitioner has further submitted that in view of the same, the dispute was mutually settled between the parties and an award dated 26.8.2023 was passed by the CCIE in this regard, after which the parties executed a settlement agreement. The Petitioner has also submitted that subsequently, the Petitioner has paid Rs. 3687.75 Lakh to M/s Patel Engineering and has prayed for its recovery as additional capital expenditure. Further, the Petitioner has submitted that the amount of Rs. 45.86 lakh pertaining to interest charged has been considered as additional O&M expenses in view of the orders issued by the Commission in various petitions where the principal amount was considered as capital expenditure and the interest amount as O&M expenses.

35. The matter has been considered. The order dated 3.10.2022 in Petition No. 244/GT/2020 had allowed additional capital expenditure pertaining to the said works upon submission of relevant documents at the time of truing up. On the prudence check, we observe that the Petitioner has provided/ and placed the details of balance civil works and other relevant documents. Accordingly, Rs. 3641.89 lakh is hereby allowed in terms of Regulation 26(1)(a) of 2019 Tariff Regulations as additional capital expenditure. Further, considering the claim regarding the Petitioner's charging of an interest amount of Rs. 45.86 lakh under the Profit and Loss statement and reimbursement of the same through additional O&M expenses, we are of the view that



the same cannot be considered as part of O&M expenses. However, considering that the interest amount of Rs. 45.86 lakh was paid to M/s Patel Engineering under the CCIE mechanism, the Commission feels it is appropriate to allow recovery of the same as a one-time payment from the beneficiaries under the power to relax. Also, considering that this expenditure is allowed in exercise of the power to relax, the expenses allowed are not made part of the annual fixed charges determined in this order. We make it clear that the above amount, which has been allowed as reimbursement, shall not be accounted as part of actual O&M expenses for the year 2023-24 and shall not be taken into consideration while framing the normative O&M expenses of this generating station for the period 2029-34.

2019-20

36. The admissibility of the actual additional capital expenditure claimed by the Petitioner and allowed for 2019-20, based on the prudence check of the justification furnished by the Petitioner, is as under:

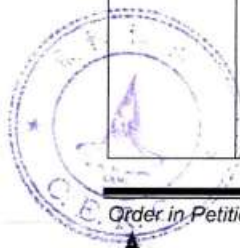
Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
Items already allowed by the Commission vide order dated 3.10.2022 in Petition No. 244/GT/2020 on projection basis						
1	14 nos. computer desktop hp600g4 mt i5 win10p 815 wifi, 14 nos. ups, 02 nos. scanner, 14 nos. new printer and 01 nos. multifunction printer	10.19	25(2)(a)	"These 14 no. Computer desktop hp600g4 mt i5 win10p 815 wifi, 14 no ups, 02 no. Scanner, 14 no. New printer and 01 no multifunction printer were purchased for official use by different departments at koteswar against the declared computers, ups,	In light of our decision in paragraph 18 of this order above, the claim is allowed . The de-capitalisation value of old replaced assets has been considered and dealt with under 'Assumed Deletions'.	10.19



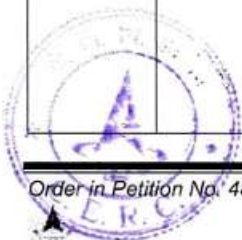
Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				printers, scanner.		
2	52 no. computer dell optimex 3060, 52 no. line interactive ups 1000v, 14 no. printer- hp laser jet pro m202dw and 29 no. epson v39 scanners	29.61	25(2)(a)	These 52 no computer dell optimex 3060, 52 no. Line interactive ups 1000v, 14 no. Printer- hp laser jet pro m202dw and 29 no. Epson v39 scanners were purchased against 52 ber declared computers and ups, 14 printers, 29 scanners procured before 2010. The cost of : 52 no computer dell optimex 3060 is rs.. 24,77,800.00/-, 52 no. Line interactive ups 1000v cost is rs. 1,73,316.23/-, 14 no. Printer- hp laser jet pro m202dw cost is rs. 2,02,216.00/- 29 no. Epson v39 scanners cost is rs. 1,08,025.02/-. Aggregated value is rs. 2961357.25/-.		29.61
3	hsd mini degausser	2.29	25(2)(a)	Essential computer hardware and software items.		2.29
4	Main access to the work power house	60.67	26(1)(c)	Tunnel lining supporting work ,diversion of drainage out through HDPE pipe, wet shot created with chain link fabric, protection layer of shot created, final layer of	In light of our decision in paragraph 18 of this order above, the claim is allowed .	60.67



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				guniting and plastering is essential and requires necessary action. Hon'ble commission vide order dated 3.10.2022 in petition no. 244/GT/2020 directed to submit the complete details of subject works at the time of truing up of tariff. In this context, it is submitted that the detailed breakup of expenditure incurred towards "balance civil works" for the period 2016-24 is annexed at annexure-a.		
5	Stabilisation work on the right bank	142.83	26(1)(c)	A slide of dumped muck material on the right bank may be an obstruction in the river flow. Due to this, the stabilisation/prot ection work of the dumped muck piles on the right bank is essential for the safe and uninterrupted operation of the power plant. The work was carried out as per the recommendatio ns of dr. P. C. Nawani, (consultant geology). The report/recomme ndations of dr. P.		142.83

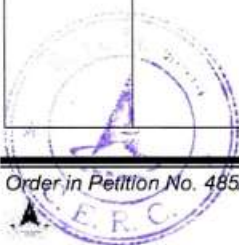


Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				C. Nawani, (consultant geology) visit is attached as supporting documents for the claim. Hon'ble commission vide order dated 3.10.2022 in petition no. 244/GT/2020 directed to submit the complete details of subject works at the time of truing up of tariff. In this context, it is submitted that the detailed breakup of expenditure incurred towards "balance civil works" for the period 2016-24 is annexed at annexure-a.		
6	Stabilisation work of the left bank	93.00	26(1)(c)	Failure of slopes due to slide of rock mass in the left bank D/S of the dam, support and drilling grouting were necessary for keeping large mass movements under control, which are essential for safe and uninterrupted operation of the power plant. The work was carried out as per the recommendations of Dr. P. C. Nawani, (Consultant Geology). The report/recommen	In the light of our decision in paragraph 18 of this order above, the claim is allowed.	93.00



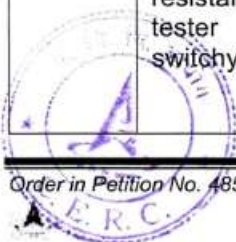
Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				<p>ndations of Dr. P. C. Nawani, (Consultant Geology) visit is attached.</p> <p>Hon'ble Commission vide order dated 3.10.2022 in Petition No. 244/GT/2020 directed to submit the complete details of subject works at the time of truing up of tariff. In this context, it is submitted that the detailed breakup of expenditure incurred towards "Balance Civil Works" for the period 2016-24 is annexed at Annexure-A of the petition.</p>		
7	Strengthening measures for plugging of diversion tunnel	26.75	26(1)(c)	<p>Failure of slopes due to slide of rock mass in the left bank D/S of the dam, support and drilling grouting were necessary for keeping large mass movements under control, which are essential for safe and uninterrupted operation of the power plant. The same work was also undertaken in the year 2018-19, and the Hon'ble commission had allowed the same vide order</p>	<p>It is noticed that the Commission had allowed the work vide order dated 14.9.2022 in Petition No. 245/GT/2020. Since, the claim of the Petitioner is for spill over works, the additional capital expenditure claimed is allowed.</p>	26.75

Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				dated 14.09.2022 in Petition No. 245/GT/2020 at serial no.-10. This work was continued and carried out as per the report of the expert committee of CWC. The report of CWC officers and report of team of Geology and Design department along with Consultant Geology Dr. P.C. Nawani is attached along with supporting documents. Hon'ble Commission vide order dated 3.10.2022 in Petition No. 244/GT/2020 directed to submit the complete details of the subject works at the time of truing up of tariff. In this context, it is submitted that the detailed breakup of expenditure incurred towards "Balance Civil Works" for the period 2016-24 is annexed at Annexure-a.		
8	Flooring work in the PH building	57.95	26(1)(d)	For the safety of the Power House structure, due to geological reasons and to control seepage in and around the powerhouse-	In the light of our decision in paragraph 18 of this order above, the claim is allowed .	57.95



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				cladding wall, flooring, and false ceiling, these works are necessary for safety and efficient plant operation. Hon'ble Commission vide order dated 3.10.2022 in Petition No. 244/GT/2020 directed to submit the complete details of subject works at the time of truing up of tariff. In this context, it is submitted that the detailed breakup of expenditure incurred towards "Balance Civil Works" for the period 2016-24 is annexed at Annexure-a.		
9	Supply & installation of the existing jetty	0.00 (26.14 in UDL)	26(1)(d)	For facilitating the parking of a new passenger boat, facilitating mooring and boarding onto the staff boat, extension of the existing jetty is an essential need for the project.	In light of our decision in paragraph 18 of this order above, the claim is allowed on an accrual basis. However, a tariff will be allowed upon discharge.	0.00
10	01 no of skylift machine hydraulic articulated platform 11 mtr height on tata sfc-407 by electrical deptt	16.32	26(1)(d)	Used for Electrical lines & Street Light Maintenance at KHEP. Hydraulic lifter was required to carry out maintenance work at height safely. This work is essential for the safety and efficient	In light of our decision in paragraph 18 of this order above, the claim is allowed .	16.32

Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				operation of the power plant.		
11	01 no of fire tenders of tata xenon yodha for water mist	0.00 (13.22 in UDL)	26(1)(d)	Mini Fire tender is required by CISF for the firefighting purposes on narrow roads and sharp bends, etc., to minimise the lead time.	In light of our decision in paragraph 18 of this order above, the claim is allowed when the same is discharged.	0.00
Not Allowed in order dated 3.10.2022 in Petition No. 244/GT/2020, however, the Commission had allowed for submission of justification at the time of truing up						
12	Multipurpose hall - civil (u-800097) & electrification (u-800117)	468.92	26(1)(d), 76,77	The construction of a multipurpose hall has been done for recreation or staff engaged in O&M work at KHEP, as well as for organising different entertaining events at the Project. KHEP project is located at remote area, there is no place for entertainment of employees. therefore, it is essential to construct a community building in Project for sports and cultural activities and welfare of employees. This work was necessary for efficient plant operation.	The asset/work was not considered by the Commission vide order dated 3.10.202. Accordingly, in light of our decision in paragraph 20 of this order above, the claim is not allowed .	0.00
Additional Work						
13	Digital earth resistance tester switchyard	6.86	26(1)(b)	As per clause no. 48 (8) of Central Electricity Authority Regulations	Considering the nature of the asset as a tool and tackle. Accordingly,	0.00



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				2010 for measures relating to safety and electric supply, "Every earthing system belonging to either the supplier or the consumer shall be tested for its resistance to earth on a dry day during dry season not less than once a year and records of such tests shall be maintained and produced, if so required, before the Electrical Inspector". In view of the above, the Digital Earth Resistance Tester is procured for conducting earth resistance measurement tests of earth pits at Switchyard/Power House/Sub Station every year, and records are maintained.	in light of our decision in paragraph 20 of this order above, the claim is not allowed .	
14	04 no of 02 ton split ac 5 star for power house (all 4 unit)	2.01	26(1)(d)	ACs were required to be installed to maintain the required temperature in the UCBs of all four Units, the service station control panel & Network panel.	In light of our decision in paragraph 20 of this order above, the claim is not allowed .	0.00
15	02 nos 01 ton ac rating 5 star for service station control panel & network panel	0.61				0.00
16	Accounting software &	0.14	26(1)(d)	Purchased as per the	In light of our decision in paragraph 19	0.00



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
	thermal printer for cisf			requisition of CISF.	of this order above, the claim is not allowed .	
17	Door frame metal detector	0.95	26(1)(d)	To comply with IB Recommendation regarding security issues and as per the request of CISF, Door frame metal detectors have been purchased for security purposes (IB recommendations shall be submitted separately, as it is confidential).	In light of our decision in paragraph 19 of this order above, the claim is allowed .	0.95
Total Amount Claimed		919.09				
Total Amount Allowed						440.56

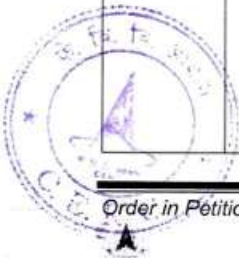
37. Based on the above, the total additional capital expenditure of Rs. 440.56 lakh is allowed for 2019-20.

2020-21

38. The admissibility of the actual additional capital expenditure claimed by the Petitioner and allowed for 2020-21, based on a prudence check of the justification furnished by the Petitioner, is as under:

Sl. No.	Head of Work/ Equipment	Amount claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
Items already allowed – Spill over Works						
1	67 meter steel truss bridge at the downstream of KHEP	481.31	25(2)(d)	The old Bailey bridge, before the outlet of the diversion tunnel, was the only access from the right bank and was used by local people to communicate with their	In light of our decision in paragraph 18 of this order above, the claim is allowed . The de-capitalisation value of old replaced assets has been considered and	481.31

Sl. No.	Head of Work/ Equipment	Amount claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				respective villages. The abutment of the Old Bailey bridge was to be dismantled for the smooth flow of the water from TRC. So, it was necessary to construct an abutment to relocate the steel girder bridge situated at the downstream side of the outlet of the diversion tunnel. Road to steel girder bridge for approach to project affected villagers was essentially required to be taken up.	dealt with under 'Assumed Deletions'.	
2	Stabilisation work on the left bank of the dam	20.67	26 (1)(c)	In addition to the stabilisation work of the left bank of the dam, "Failure of slopes due to slide of rock mass in left bank D/S of Dam, support and drilling/ grouting was necessary for keeping large mass movements under control, which was very essential for safe and uninterrupted operation of the Power plant." The work was carried out as per the recommendations of Dr. P. C. Nawani, (Consultant Geology). The	In light of our decision in paragraph 18 of this order above, the claim is allowed .	20.67



Sl. No.	Head of Work/ Equipment	Amount claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				report/recommendations of Dr. P. C. Nawani, (Consultant Geology) visit is attached.		
3	Stabilisation work on the right bank of the dam	85.88	26 (1)(c)	Addition to the stabilisation work of right bank of dam- "Slide of dumped muck material at right bank would have created obstruction in river flow. Therefore stabilization /protection work of the piled up dumped muck at right bank was very essential for safe and uninterrupted operation of Power plant." The work was carried out as per the recommendations of Dr. P. C. Nawani, (Consultant Geology).		85.88
4	Finishing work on the power house	24.53	26(1)(d)	In addition to the Finishing works of the power house, i.e. finishing of floors, false ceiling, wall cladding and treatment of all seepage zones in and around the power house, were required to be taken up necessarily to protect the Power House structure. Hon'ble Commission vide order dated 3.10.2022 in Petition No.		24.53



Sl. No.	Head of Work/ Equipment	Amount claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				244/GT/2020 directed to submit the complete details of subject works at the time of truing up of tariff.		
Not considered by the Commission at the time of determination of tariff, however, liberty was given by the Commission to claim the same at the time of truing up						
5	Multipurpose hall - civil (u-800097) & electrification (u-800117)	9.10	26(1)(d), 76,77	In addition to the work, "The construction of a multipurpose hall has been done for recreation or staff engaged in O&M work at KHEP, as well as for organising different entertaining events at the Project. KHEP project is located at remote area, there is no place for entertainment of employees. therefore, it is essential to construct a community building in Project for sports and cultural activities and welfare of employees. This work is necessary for efficient plant operation."	In light of our decision in paragraph 20 of this order above, the claim is not allowed .	0.00
Additional Work						
6	Rehab exp FY 2020-21	8.52	25(1)(a)	Amount released to the Forest Department for the plantation of dwarf-sized plants around the reservoir.	Considering that the assets/ works will be in compliance with a statutory authority, the same is allowed .	8.52
7	06 Nos. OF MAHINDE RA BOLERO- (BS VI)-03 Nos. NON	47.77	25(1)(a)	Jeeps were procured to replace beyond-economical-repair vehicles and as per the	In light of our decision in paragraph 20 of this order above, the claim is not allowed .	0.00



Sl. No.	Head of Work/ Equipment	Amount claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
	AC and 03 Nos. AC			requirements of the Koteshwar Project.		
8	02 qty godrej wall mounted cell phone locker (01 for power house and 01 for switchyard)	1.34	26(1)(d)	To comply with IB Recommendation regarding security issues.		0.00
9	Power edge r440 rack server for it department	7.67	26(1)(d)	R440 rack servers were purchased for domain servers installation in IT server room for user authentication.		0.00
10	05 air conditioner through committee purchase for CISF	2.60	26(1)(d)	Installed at CISF Conference room & Guest House.	In light of our decision in paragraph 19 of this order above, the claim is not allowed .	0.00
11	Biometric device with a metal enclosure & electromagnetic lock for it office server room	0.33	26(1)(d)	The IB officials visited KHEP in 2019 and advised installing the biometric lock system at the entry gate of the server room of the IT Department, so that entry and exit in the server room could be monitored, keeping in mind the cyber threats (IB recommendations shall be submitted separately, as it is confidential).	In light of our decision in paragraph 20 of this order above, the claim is not allowed .	0.00
12	Supply & installation of existing jetty	1.76	26(1)(d)	Payment of the GST amount after the supply and installation of the existing jetty.	In light of our decision in paragraph 19 of this order above, the claim is allowed .	1.76
13	Led video wall p-4 for	21.26	26(1)(d)	To display various	In our view, the claimed	21.26

Sl. No.	Head of Work/ Equipment	Amount claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
	power house			generations/Organisational Data along with photographs at the Machine Hall of Power House.	expenditure is necessary for the safe and efficient operation of the generating station. However, the Petitioner has not provided the supporting documents required under the said regulation. Accordingly, the claimed expenditure is allowed under regulation 26(1)(d) read with Regulation 76 of the 2019 Tariff Regulations	
Total Amount Claimed		712.74				
Total Amount Allowed						643.93

39. Based on the above, the total additional capital expenditure of Rs. 643.93 lakh is allowed for 2020-21.

2021-22

40. The admissibility of the actual additional capital expenditure claimed by the Petitioner and allowed for 2021-22, based on the prudence check of the justification furnished by the Petitioner, is as under:

Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
Items already allowed – Spill over Works						
1	Strengthening measures for plugging of the diversion tunnel	47.27	26(1)(c)	In addition to the work of strengthening the measure of plugging of the diversion tunnel,	The same work was also undertaken in year 2018-19 and Hon'ble commission had allowed the same vide order dated	47.27

Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				<p>"Permanent Plug was not constructed due to the sinking of the diversion tunnel. Therefore, a 60.0 M length Access Adit tunnel was excavated over the diversion tunnel at EL 635.00 platform and after that 80 nos 300 mm dia bore holes were drilled from 635.00 mt platform to the top of Diversion tunnel. Underwater concrete sluicing inside the diversion tunnel through these holes and after that a mass of concrete grouted by stage grouting for strengthening of the plug." This work was continued and carried out as per the report of the expert committee of CWC. The report of CWC officers is attached. Hon'ble</p>	<p>14.9.2022 in Petition No. 245/GT/2020. Since, the work has been carried out as per the report of expert committee, the additional capital expenditure claimed is allowed.</p>	



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				Commission vide order dated 3.10.2022 in Petition No. 244/GT/2020 directed to submit the complete details of subject works at the time of truing up of tariff. In this context, it is submitted that the detailed breakup of expenditure incurred towards "Balance Civil Works" for the period 2016-24 is annexed at Annexure-a.		
2	Stabilisation work of the right bank	31.41	26(1)(c)	In addition to the stabilisation work on the right bank, the slide of dumped muck material on the right bank would have created an obstruction in the river flow. Therefore, stabilisation/ protection work of the piled up dumped muck at the right bank was very essential for the safe and uninterrupted operation of the Power	In light of our decision in paragraph 18 of this order above, the claim is allowed .	31.41



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				Plant of Koteswar. The work was carried out as per the recommendations of Dr. P. C. Nawani, (Consultant Geology).		
3	Stabilisation work of the left bank	90.66	26(1)(c)	In addition to the stabilisation work of left bank-"During April' 2017 some kind of subsidence in between EL 685 to 560 was observed at left bank in D/s of Dam. Keeping in view the vulnerable situation of subsidence and development of cracks on slopes of left bank, team of Geology and Design along with Consultant Geology Dr. P.C. Nawani have visited the project site and suggested various slope stabilization measures in form of concrete gravity wall with micro piles boulder filled gabion wall and toe walls of R.R. Masonry etc.		90.66



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				Immediate off-loading of slump mass was also necessitated immediately. Accordingly, essential stabilization measures have been taken up at left of Koteswar HEP. This work was necessary for successful and efficient plant operation. The work was carried out as per the recommendations of Dr. P. C. Nawani, (Consultant Geology).		
4	Main access work to power house	51.51	26(1)(c)	Addition to the Main access work of power house-"Final layer of guniting and plastering was very essential for safety of Rib support to prevent from rusted of Rib structure and was required to be taken up necessary.	In light of our decision in paragraph 18 of this order above, the claim is allowed .	51.51
5	Seepage channelisation lining & other work of the main access tunnel to the power house	46.46	26(1)(c)	In addition to the other work of MAT to Power house-"Protection layer of wet shotcrete		46.46

Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				<p>was required for protection of support work of MAT, diversion of drainage out through HDPE pipe, wet shotcrete with chain link fabric, protection layer of shotcrete was very essential and was required to be taken up necessary for efficient and safe operation of plant." Hon'ble Commission vide order dated 3.10.2022 in Petition No. 244/GT/2020 directed to submit the complete details of subject works at the time of truing up of tariff. In this context, it is submitted that the detailed breakup of expenditure incurred towards "Balance Civil Works" for the period 2016-24 is annexed at Annexure-a.</p>		
6	Construction of 04 no	46.68	26(1)(d)	As per the advice of IB for better	In light of our decision in paragraph 19 of	46.68



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
	check post at kehp			security, 04 Nos. Check Posts were constructed at different vulnerable locations at KHEP from time to time for security purposes (IB recommendations shall be submitted separately as it is confidential).	this order above, the claim is allowed .	
7	Water tank at the fire station	16.22	26(1)(d)	A water tank was required in CISF fire station at pendarsh as per Fire Wing requirement.		16.22
8	Handheld metal detector	0.18	26(1)(d)	As per IB recommendations and as per the request of CISF, HHMDs have been purchased for security purposes (IB recommendations shall be submitted separately as it is confidential).		0.18
9	CCTV system for KHEP	44.35	26(1)(d)	A CCTV network was installed at the Koteshwar Project as per the recommendations of the IB letter dated 20.12.2022 (IB recommendations shall be submitted		44.35



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				separately, as they are confidential).		
Not Allowed in order dated 3.10.2022 in Petition No. 244/GT/2020; however, the Commission had allowed for submission of justification at the time of truing up						
10	Construction of shed at o&m store, dg room & turbine shed at Baharat camp	89.70	25(2)(b)	As per the requirement of the O&M store, a tin shed was constructed near the New O&M store to shift heavy-weight goods during the shifting from the old O&M store to the new O&M store. The rotor shaft and other electric equipment were shifted to near Bharat camp and kept in an open area. For the purpose of storing this equipment, a shed was manufactured as per the requirements of the O&M department. This work was necessary for safety of the plant and equipment at the Project.	In light of our decision in paragraph 20 of this order above, the claim is not allowed .	0.00
Additional Work						
11	Polycom video conferencing camera for CISF	6.15	26(1)(d)	A Polycom Video Camera was purchased for having official meetings with the	In light of our decision in paragraph 19 of this order above, the claim is not allowed .	0.00

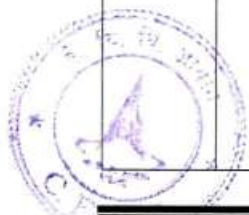
Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				approval of the competent authority.		
Total Amount Claimed		470.58				
Total Amount Allowed						374.73

41. Based on the above, the total additional capital expenditure of Rs. 374.73 lakh is allowed for 2021-22.

2022-23

42. The admissibility of the actual additional capital expenditure claimed by the Petitioner and allowed for 2022-23, based on the prudence check of the justification furnished by the Petitioner, is as under:

Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
Additional Work						
1	Pro. Lay. Add. Ms pipe 300mm dia from swichy. P.h. roof at KHEP	47.89	26(1)(d)	Arrangement of additional pipes and construction of a trench in the project area from the switchyard to the Power House roof EL 570 was carried out as the previously laid pipes were not adequate for various control cables from the switchyard to the Power House, and the previous trench was also not adequate for laying cables from the switchyard to the Power House roof EL 570. Further, any incident due to fire/damage of Power House	Considering the nature of the work, it is noticed that the work was undertaken to ensure safe and reliable cable routing and to mitigate risks of fire, short circuits, or cable damage, which is for the safe plant operation. The Petitioner has not submitted supporting documents for the claim as per the requirements of the regulation. However, considering the fact that the work is for the safety of the	47.89



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				cables may lead to generation loss and intern to financial loss to the project revenues. Due to this and to prevent the generation loss additional pipes were necessary required for cable laying from switchyard to Power House roof EL 570M.SS gate & addition MS pipe was essential required for safety point of view to protect the power plant by any threats and laying of additional MS pipe to protect the various cables from switchyard to Power House during any fire/short circuit etc.	plant operation, the claim is allowed under Regulation 76 read with Regulation 26(1)(d) of the 2019 Tariff Regulations.	
Total Amount Claimed		47.89				
Total Amount Allowed						47.89

43. Based on the above, the total additional capital expenditure of Rs. 47.89 lakh is allowed for 2022-23.

2023-24

44. The admissibility of the actual additional capital expenditure claimed by the Petitioner and allowed for 2023-24, based on a prudence check of the justification furnished by the Petitioner are as under:

Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
Items already allowed – Spill over Works						

Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
1	Finishing work of power house wall cladding, false ceiling & flooring (claim settlement through CCIE mechanism)	347.29	26(1)(a)	Finishing works, i.e. finishing of floors, false ceiling, wall cladding and treatment of all seepage zones in and around the power house, were required to be taken up necessarily to protect the Power House structure.	In the light of our decision in paragraph 35 of this order above, the claim is allowed .	347.29
2	Seepage channelization and other works of mat (claim settlement through CCIE mechanism)	132.84		A protection layer of wet shotcrete was required for the protection of the support work of MAT, diversion of drainage out through an HDPE pipe, wet shotcrete with chain link fabric, and a protection layer of shotcrete was essential and required to be taken up.		132.84
3	Stabilisation work of the right bank dump muck pile KHEP (claim settlement through CCIE mechanism)	727.79		A slide of dumped muck material on the right bank would have created an obstruction in the river flow. Therefore Stabilization /protection work of the piled up dumped muck at right bank was very essential for safe and uninterrupted operation of Power plant. The work was carried out as per the recommendations of Dr. P. C. Nawani, (Consultant Geology).		727.79



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
4	Stabilisation work of left bank slope protection work (claim settlement through CCIE mechanism)	1251.80		Failure of slopes due to slide of rock mass in the left bank D/S of the Dam, support and drilling/ grouting were necessary for keeping large mass movements under control, which was very essential for safe and uninterrupted operation of the Power plant. The work was carried out as per the recommendations of Dr. P. C. Nawani, (Consultant Geology).		1251.80
5	STRENGTHENING MEASURE OF PLUGGING OF DIVERSION TUNNEL (CLAIM SETTLEMENT THROUGH CCIE MECHANISM)	1182.17		Permanent Plug was not constructed due to the sink of the diversion tunnel. Therefore, a 60.0 M length Access Adit tunnel was excavated over the diversion tunnel at EL 635.00 platform and after that, 80 nos 300 mm dia bore holes were drilled from 635.00 mt platform to the top of the diversion tunnel. Underwater concrete sluicing inside the diversion tunnel through these holes, and after that, a mass of concrete is grouted by stage grouting for the strengthening of the plug. This work was continued and		1182.17



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				carried out as per the report of the expert committee of CWC.		
6	CO2 TYPE FIRE EXTINGUISHER	12.41	26(1)(d)	It is required to strengthen the firefighting and other rescue operations executed by the CISF Fire Wing. This is required for the safety of the power plant.	The expenditure claimed is for the safety of the plant. Accordingly, in light of our decision in paragraph 19 of this order above, the claim is allowed .	12.41
7	HIGH EXPANSION FOAM GENERATOR	1.77				1.77
8	WATER MIST & CAF FIRE EXTINGUISHER	7.72				7.72
9	BA COMPRESOR	10.37				10.37
10	BA SET	7.93				7.93
Additional Work						
11	Rehab exp	15.50	25(1)(d)	Release of balance payments as per the recommendation of the Committee of Experts constituted by GoUK, for the investigation of the land sliding near the reservoir area due to collateral damages and rehabilitation, including left out properties.	Considering that the additional capital expenditure pertains to the release of balance payments, the claim is accordingly allowed .	15.50
12	Rehab exp	1.48	25(1)(d)	Balance Payment to Forest Division, New Tehri, towards development of green belt around Koteshwar reservoir, which was mentioned in condition No. 10 of 338 hac. of Lease Deed. Forest land transferred to Koteshwar Project by State Forest Department. These items are in the		1.48



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
				original scope of work.		
13	Tata 510sfc truck (including insurance rto exp)	13.52	25(2)(a)	Procured against BER of old TATA Truck.	In light of our decision in paragraph 20 of this order above, the claim is not allowed , and subsequently, their decapitalization is also not being considered.	0.00
14	Tata t.7 ultra truck (including insurance rto exp)	15.18	25(2)(a)	Procured against the BER of the old TATA Truck.		0.00
15	Rehab exp	18.00	26(1)(a)	Payment of Rs 18 lacs made by the Project on dt 27.09.2012 to the Rehab Directorate against the construction of Bhanso Bridge. The amount is capitalised after getting a Utilisation Certificate from the Director of Rehab.	Considering the fact that the additional capital expenditure pertains to the Payment to Rehab Directorate, the claim is allowed .	18.00
16	Construction of the boat point concrete road near the Zero Bridge at koteswar	35.54	26(1)(d)	As the Boat Point was constructed near the Zero Bridge at Koteswar, it is necessary to connect Boat Point to the main road. So, the concrete road near the Zero Bridge is constructed. This work is necessary for efficient plant operation as it is the only way to reach power house in case of road blockage.	In light of our decision in paragraph 19 of this order above, the claim is allowed .	35.54
17	Construction of approach road on both sides of the newly erected	182.56	26(1)(d)	Under Balance Civil Works, Construction and erection of "Steel Truss Bridge		182.56



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulation	Justification submitted by the Petitioner	Remarks for admissibility	Amount allowed (Rs. in lakh)
	steel truss bridge at kKHEP			downstream of Dam" was also undertaken and has also been completed. Cutting of the approach road has also been done on both sides of the newly erected steel truss bridge. Construction and Protection/Treatm ent Works of Approach Road on both sides of the newly erected steel truss bridge at KHEP have been done.		
18	Construction of cement concrete road near jurashi nala to the reservoir for water sports	230.59	26(1)(d)	Cement concrete road is constructed to connect the jetty point at the reservoir to the main road near Jurashi nala.	In light of our decision in paragraph 20 of this order above, the claim is not allowed.	0.00
19	Component of award/settlem ent in tunnels, penstocks, power house & other hydraulic works- power house building	61330.5 0	25(1)(a)/ 13(3) 176/77	THDCIL deposited the full decretal amount of Rs 1460.25 crore before Registrar, Delhi High Court on dated 27.01.2020 & 31.08.2023 towards Arbitral Award dated 17.12.2010 & Hon'ble High Court, Delhi judgement dated 12.07.2023 & 28.07.2023 against Arbitral Award related to THDCIL vs PCL ILC JV matter.	In light of our decision in paragraphs 27-29 of this order above, the principal component corresponding to the arbitral award is allowed.	19979.4 0
20	Component of award/settlem ent in the dam & spillway	81774.0 0				26639.2 0
21	Component of award/settlem ent in tunnels, penstocks, power house & other hydraulic works- tunnel & penstocks	2920.50				951.40
Total Amount Claimed		150219.46				
Total Amount Allowed						51505.17



45. Based on the above, the total additional capital expenditure of Rs. 51505.17 lakh is allowed for 2023-24.

Discharge of liabilities

46. The Petitioner has claimed the following discharge of liabilities during the period 2019-24:

<i>(Rs. In lakh)</i>				
2019-20	2020-21	2021-22	2022-23	2023-24
362.80	59.46	57.18	3.29	35.33

47. The order dated 14.9.2022 in Petition No. 245/GT/2020 had allowed closing liability of Rs. 405.06 lakh as on 31.3.2019. Also, the Petitioner has not claimed any reversal corresponding to the opening liability of Rs. 405.06 lakh, which has been considered by the Commission.

48. The Petitioner has submitted Form 16, duly certified by an Auditor. Accordingly, on a prudence check, the assets/items allowed during the period 2019-24 and for which the liabilities are yet to be discharged are allowed. Accordingly, the discharge of liabilities during the period 2019-24 is allowed as shown under:

<i>(Rs. In lakh)</i>					
	2019-20	2020-21	2021-22	2022-23	2023-24
Opening undischarged liabilities	405.06	192.35	132.89	77.29	73.99
Addition	150.09	0.00	1.58	0.00	0.00
Discharges of liabilities during the year (within scope)	362.80	0.23	0.85	1.71	18.01
Discharge of liabilities during the year (beyond scope)	0.00	59.23	56.33	1.58	17.32
Reversal of liabilities	0.00	0.00	0.00	0.00	0.00
Closing undischarged liabilities	192.35	132.89	77.29	73.99	38.67

De-capitalization

49. As regards the de-capitalisation, Regulation 26 (2) of the 2019 Tariff

Regulations provides as under:



"In case of de – capitalization of assets of a generating company or the transmission licensee, as the case may be, the original cost of such assets as on the date of de – capitalization shall be deducted from the value of gross fixed assets and corresponding loan as well as equity shall be deducted from outstanding loan and the equity respectively in the year such de – capitalization takes place with corresponding adjustments in cumulative depreciation and cumulative repayment of loan, duly taking into consideration the year in which it was capitalized."

50. The Petitioner has claimed de-capitalisation against various assets as under:

<i>(Rs. in lakh)</i>				
2019-20	2020-21	2021-22	2022-23	2023-24
0.81	0.86	0.00	67.40	4.08

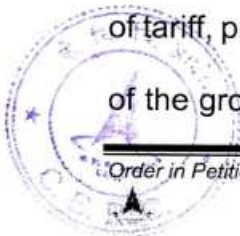
51. The Petitioner has claimed the above de-capitalisation against the replacement of assets/works which are not in use, such as Jeep, Trucks, Dams and Barrages, etc. The de-capitalisation, as per books, claimed by the Petitioner, had been dealt with in the relevant paragraphs relating to the claims for additional capital expenditure, which have been considered and allowed for the respective years for the period 2019-24, in terms of the provisions of Regulation 26(2) of the 2019 Tariff Regulations. For those assets against which additional capital expenditure has not been allowed in this order, the corresponding de-capitalisation is also not being considered. Accordingly, the decapitalisation allowed against the admitted additional capital expenditure is as under:

<i>(Rs. in lakh)</i>					
	2019-20	2020-21	2021-22	2022-23	2023-24
De-Capitalization allowed	0.81	0.86	0.00	67.40	2.23

Assumed Deletions

De-capitalisation of items replaced under additional capitalisation

52. As per the consistent methodology adopted by the Commission in its orders, the expenditure on replacement of assets, if found justified, is allowed for the purpose of tariff, provided that the capitalisation of the said asset is followed by de-capitalisation of the gross value of the old asset. However, in certain cases where de-capitalisation



is proposed for future years, the de-capitalisation of the old asset for tariff purposes is shifted to the same year as the capitalisation of the new asset is allowed. Such de-capitalisation, which is not a book entry in the year of capitalisation, is termed 'Assumed Deletions'. Further, in the absence of the gross value of the asset being decapitalised, the same is calculated by de-escalating the gross value of the new asset @ 5% per annum till the year of capitalisation of the old asset/COD.

53. Accordingly, the amounts considered under this head are given below:

(Rs. in lakh)

S.No.	Items claimed under Additional Capitalisation	Additional capitalisation claimed for new assets under replacement	Assumed Deletions Allowed
2019-20			
1	14 nos. computer desktop hp600g4 mt i5 win10p 815 wifi, 14 nos. ups, 02 nos. scanner, 14 nos. new printer and 01 nos. multifunction printer	10.19	7.98
2	52 no. computer dell optimex 3060, 52 no. line interactive ups 1000v, 14 no. printer- hp laser jet pro m202dw and 29 no. epson v39 scanners	29.61	23.20
3	hsd mini degausser	2.29	1.80
Total 2019-20		42.10	32.98
2020-21			
1	67 METER STEEL TRUSH BRIDGE AT DOWNSTREAM OF KHEP	481.31	359.16
Total 2020-21		481.31	359.16

54. Accordingly, the de-capitalisation allowed under Assumed Deletions is as under:

(Rs. In lakh)

	2019-20	2020-21	2021-22	2022-23	2023-24
Assumed Deletions allowed	32.98	359.16	0.00	0.00	0.00

Exclusions

55. The Petitioner has claimed the following exclusions as per Form-9C:

(Rs. In lakh)

	2019-20	2020-21	2021-22	2022-23	2023-24
Exclusions as per Form 9C	463.96	94.66	(-)124.91	(-)69.08	11.81



56. The Petitioner has submitted that the expenditure as stated in the table above, has been incurred on procurement/replacement of minor assets and capital spares, which are not allowed for the purpose of tariff, after the cut-off date of the generating stations. Accordingly, the Petitioner has put these additions under the exclusion category. The Petitioner has also de-capitalised certain amounts in the books of accounts pertaining to minor assets, as they are no longer in use on account of becoming unserviceable/obsolete.

57. We have considered the matter. It is pertinent to mention that the recovery of additional expenditure on minor assets, tools and tackles beyond the cut-off date is neither allowed to be capitalised nor is it permissible under the O&M expense. Also, the de-capitalisation of minor assets/capital spares is justifiable. Further, the positive and negative entries arising from inter-unit transfers of a temporary nature are ignored for the purpose of tariff. Accordingly, the exclusions/ignoring of positive and negative entries arising out of the minor assets, tools & tackles, inter-unit transfers and capital spares for the purposes of tariff for the period 2019-24, as claimed above, are allowed.

Additional capital expenditure allowed for the period 2019-24

58. Accordingly, the additional capital expenditure allowed for the generating station for the period 2019-24 is summarised below:

	<i>(Rs. in lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Additions allowed within the original scope	42.10	489.83	0.00	0.00	47586.98
Additions allowed beyond the original scope	398.46	154.10	374.73	47.89	3918.19
Total additions allowed (a)	440.56	643.93	374.73	47.89	51505.17
Decapitalization allowed	0.81	0.86	0.00	67.40	2.23
Assumed Deletion allowed	32.98	359.16	0.00	0.00	0.00
Less: Total Decapitalization allowed, including assumed deletions (b)	33.79	360.02	0.00	67.40	2.23
Add: Liability discharged (c)	362.80	59.46	57.18	3.29	35.33



Net Additional Capital Expenditure allowed (d)=(a)-(b)+(c)	769.57	343.36	431.90	(-)16.22	51538.26
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Capital cost allowed for the period 2019-24

59. Accordingly, the capital cost allowed for the period 2019-24 is as under:

	(Rs. in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Capital Cost allowed (A)	286012.08	286781.65	287125.01	287556.91	287540.70
Net additional capital expenditure allowed (B)	769.57	343.36	431.90	(-)16.22	51538.26
Closing Capital Cost allowed (C=A+B)	286781.65	287125.01	287556.91	287540.70	339078.96

Debt Equity Ratio

60. Regulation 18 of the 2019 Tariff Regulations provides as under:

"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:

- where equity actually deployed is less than 30% of the capital cost actual equity shall be considered for determination of tariff;
- the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment;
- 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.

- 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.
- 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.

- 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.

- 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.”

61. Gross normative loan and equity amounting to Rs. 220146.53 lakh and Rs. 65865.56 lakh respectively, as on 31.3.2019, as considered in the order dated 8.11.2024 in Petition No. 60/GT/2024, have been considered as the normative loan and equity as on 1.4.2019. The debt-equity ratio, as on COD, prior to 1.4.2012, was considered in the ratio of 78.30:21.70 and the debt equity ratio after COD was considered as 70:30. De-capitalisation of assets has been deducted from the corresponding loan as well as equity, taking into consideration the debt equity ratio, applied in the year in which it was capitalised.

62. The debt-equity ratio of 70:30 has been considered for the additional capitalisation during the period 2019-24 in terms of the above regulation, as under:

(Rs. in lakh)

Asset	As of 1.4.2019		Additional Capital Expenditure during 2019-24		De-capitalisation during 2019-24		As on 31.3.2024	
	Amount	%	Amount	%	Amount	%	Amount	%
Debt	220146.53	76.97%	37471.23	70.00%	357.57	77.15%	257260.19	75.87%
Equity	65865.56	23.03%	16059.10	30.00%	105.88	22.85%	81818.78	24.13%
Total	286012.08	100.00%	53530.32	100%	463.45	100%	339078.96	100%

Return on Equity

63. Regulation 30 and 31 of the 2019 Tariff Regulations provide as under:

“30. Return on Equity:

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

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

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

Provided further that:

i. In case of a new project the rate of return on equity shall be reduced by 1.00% for such period as may be decided by the Commission if the generating station or transmission system is found to be declared under commercial operation without Commissioning of any of the Restricted Governor Mode Operation (RGMO) or Free Governor Mode Operation (FGMO) data



telemetry communication system up to load dispatch centre or protection system based on the report submitted by the respective RLDC;

ii. in case of existing generating station as and when any of the requirements under (i) above of this Regulation are found lacking based on the report submitted by the concerned RLDC rate of return on equity shall be reduced by 1.00% for the period for which the deficiency continues;

iii. in case of a thermal generating station with effect from 1.4.2020:

a) rate of return on equity shall be reduced by 0.25% in case of failure to achieve the ramp rate of 1% per minute;

b) an additional rate of return on equity of 0.25% shall be allowed for every incremental ramp rate of 1% per minute achieved over and above the ramp rate of 1% per minute subject to ceiling of additional rate of return on equity of 1.00%:

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

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

31. Tax on Return on Equity:

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

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

Rate of pre-tax return on equity = Base rate / (1-t)

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

Illustration-

(i) In case of a generating company or a transmission licensee paying Minimum Alternate Tax (MAT) @ 21.55% including surcharge and cess: Rate of return on equity = $15.50 / (1 - 0.2155)$ = 19.758%

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

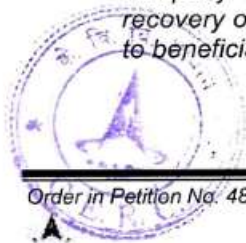
(a) Estimated Gross Income from generation or transmission business for FY 2019- 20 is Rs. 1000 crore;

(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 trueing up shall be recovered or refunded to beneficiaries or the long term customers as the case may be on year to year basis."



64. In terms of the above regulations, the base rate of RoE has been considered towards equity corresponding to expenditure incurred up to 31.3.2019 and additional capital expenditure incurred within the original scope beyond the cut-off date. Further, for expenditure incurred beyond the original scope and after the cut-off date, the weighted average rate of interest on the generating station's loan has been considered as the base rate for the computation of RoE. The Petitioner, in its affidavit dated 7.11.2025, has submitted the assessment order and ITR for the period 2019-24. Based on the submissions, it is observed that the Petitioners' claim for the MAT rate is in line with the 2019 Tariff Regulations. Accordingly, the base rate of RoE has been grossed up with the MAT rate of the respective financial year for the period 2019-24. Hence, in terms of the above Regulations, RoE has been worked out as under:

(Rs. in lakh)

	2019-20	2020-21	2021-22	2022-23	2023-24
Return on Equity on Add Cap within Original Scope					
Opening Equity (A)	65865.56	65979.70	66048.58	66048.83	66029.42
Additions due to additional capitalization (B)	12.63	146.95	0.00	0.00	14276.10
Addition due to discharge of liabilities (C)	108.84	0.07	0.25	0.51	5.40
Less: Decrease due to decapitalization (D)	7.33	78.13	0.00	19.93	0.48
Closing Equity (E)=(A)+(B)+(C)-(D)	65979.70	66048.58	66048.83	66029.42	80310.43
Average Equity (F)=(A+E)/2	65922.63	66014.14	66048.71	66039.13	73169.93
Base Rate (%) (G)	16.500%	16.500%	16.500%	16.500%	16.500%
Effective Tax Rate (%) (H)	17.472%	17.472%	17.472%	17.472%	17.472%
Effective ROE Rate (%) (I) = G/(1-H)	19.993%	19.993%	19.993%	19.993%	19.993%
Return on Equity (J)= (F)*(I)	13179.91	13198.21	13205.12	13203.20	14628.86
Return on Equity on Add Cap beyond Original Scope					
Normative Equity- Opening (A1)	0.00	119.54	183.54	312.85	327.69
Additions due to additional capitalization (B1)	119.54	46.23	112.42	14.37	1175.46
Addition due to discharge of liabilities (C1)	0.00	17.77	16.90	0.47	5.20
Less: Decrease due to decapitalization (D1)	0.00	0.00	0.00	0.00	0.00
Normative Equity – Closing (E1)=(A1)+(B1)+(C1)-(D1)	119.54	183.54	312.85	327.69	1508.35
Average Normative Equity (F1)=(A1+E1)/2	59.77	151.54	248.20	320.27	918.02
Base Rate (%) (G1)	9.437%	9.898%	9.941%	10.100%	8.142%
Effective Tax Rate (%) (H1)	17.472%	17.472%	17.472%	17.472%	17.472%

	2019-20	2020-21	2021-22	2022-23	2023-24
Effective ROE Rate (%) (I1) = G1/(1-H1)	11.434%	11.993%	12.045%	12.238%	9.866%
Return on Equity (J1)= (F1)*(I1)	6.83	18.17	29.90	39.20	90.57
Total Return on Equity (J+J1)	13186.75	13216.38	13235.01	13242.40	14719.44

Interest on Loan

65. Regulation 32 of the 2019 Tariff Regulations provides as under:

“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 assets the repayment shall be adjusted by taking into account cumulative repayment on a pro rata basis and the adjustment should not exceed cumulative depreciation recovered upto the date of de-capitalisation of such asset.

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

(5) The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio after providing appropriate accounting adjustment for interest capitalized: Provided that if there is no actual loan for a particular year but normative loan is still outstanding the last available weighted average rate of interest shall be considered; Provided further that if the generating station or the transmission system as the case may be does not have actual loan then the weighted average rate of interest of the generating company or the transmission licensee as a whole shall be considered.

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

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

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

66. Regulation 32(5) of the 2019 Tariff Regulations provides for the consideration of the actual loan portfolio for the computation of the weighted average rate of interest (WAROI). Accordingly, the weighted average rate of interest has been worked out on the basis of the actual loan portfolio for the respective year, applicable to the generating station. The repayment for the period 2019-24 has been considered equal to the depreciation allowed for the respective years.



67. Interest on loan has been calculated on the normative average loan of the year by applying the weighted average rate of interest as claimed by the Petitioner.

68. Accordingly, Interest on the loan is worked out as under:

	(Rs. in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Gross Normative loan - Opening (A)	220146.53	220682.42	220892.90	221195.24	221183.59
Cumulative repayment of Normative loan up to previous year (B)	93089.15	106617.67	120031.51	133762.20	147317.13
Net Normative loan - Opening (C=A-B)	127057.38	114064.75	100861.40	87433.03	73866.46
Add: Net Addition due to additional capital expenditure (D)	535.89	210.48	302.33	-11.65	36076.60
Repayment during the year (E)	13540.30	13556.01	13730.70	13587.87	12042.85
Less: Cumulative repayment adjustment on a/c of decapitalization (F)	11.78	142.18	0.00	32.94	1.09
Net Repayment (G)=(E)-(F)	13528.52	13413.83	13730.70	13554.93	12041.76
Net Loan - Closing (H=C+D-G)	114064.75	100861.40	87433.03	73866.46	97901.30
Average Normative loan (I)=(C+H)/2	120561.06	107463.07	94147.21	80649.75	85883.88
Weighted average rate of interest (J)	9.44%	9.90%	9.94%	10.10%	8.14%
Interest on Loan (K) = (I)*(J)	11376.87	10636.30	9358.94	8145.62	6992.54

Depreciation

69. Regulation 33 of the 2019 Tariff Regulations provides as under:

“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 not allowed 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 or the extended life.

(4) Land other than the land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset.

(5) Depreciation shall be calculated annually based on Straight Line Method and at rates specified in Appendix-I to these regulations for the assets of the generating station and transmission system:

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

(6) In case of the existing projects the balance depreciable value as on 1.4.2019 shall be worked out by deducting the cumulative depreciation as admitted by the Commission up to 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 decapitalized 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."

70. Accordingly, the net cumulative depreciation amounting to Rs. 93089.15 lakh as on 31.3.2019, has been considered for the purpose of tariff. The COD of the generating station is 1.4.2012. The weighted-average rate of depreciation has been applied to determine depreciation for the year 2019-20, in line with Regulation 33(5) of the 2019 Tariff Regulations.



71. In terms of the 2014 Tariff Regulations, the useful life of a hydro generating station was 35 years. However, the 2019 Tariff Regulations stipulate that the useful life of a hydro generating station is 40 years. Accordingly, the balance useful life of the generating station as on 1.4.2019 has been considered to be 33 years in line with the 2019 Tariff Regulations.

72. Accordingly, depreciation has been computed as under:

	(Rs. in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Capital Cost (A)	286012.08	286781.65	287125.01	287556.91	287540.70
Net Additional capital expenditure during the year (B)	769.57	343.36	431.90	-16.22	51538.26
Closing Capital Cost (C=A+B)	286781.65	287125.01	287556.91	287540.70	339078.96
Average Capital Cost (D)=(A+C)/2	286396.86	286953.33	287340.96	287548.80	313309.83
Freehold land (E)	461.78	461.78	461.78	461.78	461.78
IT Equipment & Software (F)	58.75	63.06	63.06	63.06	63.06
Rate of Depreciation (H)	4.73%	4.72%	4.78%	4.73%	3.84%
Total Depreciable Value (I=(D-E-F *90%)) + F	257347.45	257848.70	258197.57	258384.63	281569.55
Remaining Depreciable Value at the beginning of the year (J=I-Cum Dep at 'O' at the end of the previous year)	164258.30	151231.02	138166.06	124622.43	134252.42
Balance useful Life (K)	33.00	32.00	31.00	30.00	29.00
Depreciation (L=D*H)	13540.30	13556.01	13730.70	13587.87	12042.85
Cumulative Depreciation at the end of the year (M=L+Cum. Dep at 'O' at the end of previous year)	106629.45	120173.69	133762.20	147350.07	159359.98
Less: Depreciation adjustment on account of de-capitalisation (N)	11.78	142.18	0.00	32.94	1.09
Net Cumulative Depreciation at the end of the year (O)	106617.67	120031.51	133762.20	147317.13	159358.89

Operation & Maintenance Expenses

73. Regulation 35 (2) (a) of the 2019 Tariff Regulations provides as under:

“(2) Hydro Generation Station: (a) Following operations and maintenance expense norms shall be applicable for hydro generating stations which have been operational for three or more years as on 1.4.2019:

	2019-20	2020-21	2021-22	2022-23	2023-24
KHEP	13452.46	14093.68	14765.46	15469.26	16206.61

Note: The impact in respect of revision of minimum wage, pay revision and GST if any will be considered at the time of determination of tariff.

(c) In case of hydro generating stations which have not completed a period of three years as on 1.4.2019 operation and maintenance expenses for 2019-20 shall be worked out by applying escalation rate of 4.77% on the applicable operation and maintenance expenses as on 31.3.2019. The operation and maintenance expenses for subsequent years of the tariff period shall be worked out by applying escalation rate of 4.77% per annum.

(d) The Security Expenses and Capital Spares for hydro generating stations shall be allowed separately after prudence check:



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

74. In the present Petition, the Petitioner has claimed O&M expenses for the period 2019-24 in terms of the above Regulation and, in addition, has claimed the security expense and capital spares as per actual expenditure for the respective years

75. Considering the fact that the generating station is in operation for three or more years as on 1.4.2019, the normative O&M expenses as allowed by the order dated 3.10.2022 in Petition No. 244/GT/2020, in terms of the above Regulation, have been allowed.

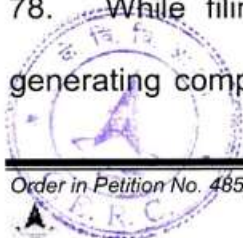
Additional O&M expenses

76. As per Regulation 35(2) (a) of the 2019 Tariff Regulations, the impact in respect of revision of minimum wage, pay revision and GST, if any, will be considered at the time of determination of tariff. Also, as per Para 10.7.4 of the Statement of Objects and Reasons (SOR) to the 2019 Tariff Regulations, the impact of wage revision, minimum wages and GST has not been factored into the O&M expenses norms and shall be considered for each hydro generating stations as below:

"10.7.4 In case of hydro generating stations the O&M expenses norms are provided for each of the generating stations in absolute terms i.e. Rs. Lakh for each year. It is not practicable to derive a common impact for all the hydro generating stations on account of employees pay revision escalation in minimum wages and GST. Therefore, the Commission has decided that the impact on O&M expenses on account of employees pay revision escalation in minimum wages and GST shall be considered for each hydro generating station separately at the time of their tariff Petitioner for the tariff period 2019-24.

77. The Commission had accordingly approved the enhancement of O&M expenses for several hydro generating stations at the time of determination of tariff for the period 2019-24.

78. While filing the tariff determination petitions for the period 2019-24, the generating companies had sought additional O&M expenses towards the impact of



employee pay revision. However, the Commission observed that some entities claimed pay revision impact for 2018-19 and escalated it at 4.77% per annum, whereas other entities applied a higher escalation factor of 8%. The Commission, while determining the tariff, adopted a standard methodology and a uniform approach by considering the actual impact for 2018-19, arising out of the implementation of the Pay Commission recommendations for the PSUs (effective 1.1.2017) and escalated the same at 4.77% per annum, in line with the principles adopted in framing the normative O&M expenses for the period 2019-24 under the 2019 Tariff Regulations. In most petitions, a normative figure for the impact of the additional pay revision was determined, and in some cases, where the additional O&M expenses were not dealt with, the Petitioners were given liberty to approach the Commission at the time of true-up of tariff. However, in the present true-up petitions, it is noted that the generating companies have submitted claims based on both approaches, i.e., the above standardised norm and the actual impact. The same has been reviewed and verified. In order to ensure fairness and consistency, the Commission has maintained a uniform methodology for assessing the impact of enhanced O&M expenses. Accordingly, the impact of the wage revision for the year 2018-19 is taken as the base, and then escalated by 4.77% per year for the period 2019-24, and approved as additional O&M expense. The actual impact of pay revision claimed for the period 2019-24 has been considered by the Commission while framing the O&M expense norms for the period 2024-29. Adjustments, if any, arising from the earlier Pay Commission changes, were included in the actual O&M expenses submitted by the generating companies, which are reflected in the normative O&M expenses allowed for the period 2024-29 in terms of the 2024 Tariff Regulations for each individual generating station.



79. It is observed that the order dated 14.9.2022 in Petition No.341/MP/2020 (filed by the Petitioner seeking recovery of the impact of wage/pay revision for the 2017-19 tariff period for the generating station), had allowed an amount of Rs. 2735 lakh in 2018-19 towards impact of pay revision of the Petitioner's staff. The provisions of the 2019 Tariff Regulations, read with the Statement of Objects and Reasons (SOR) to the said regulations, provide for an annual escalation rate 4.77 % for the projected O&M expenses during the 2019-24 tariff period. Accordingly, the Commission had allowed the impact of the pay revision during the period 2019-24, and had stated that the impact of minimum wages shall be dealt with at the time of truing up.

Impact Of Pay Revision

80. The Petitioner has claimed an amount of Rs. 20681.00 lakh towards the impact of pay revision of THDCIL employees for the period 2019-24, on account of 2017 pay scale finalisation w.e.f. 1.1.2017 as under:

<i>(Rs. in lakh)</i>				
2019-20	2020-21	2021-22	2022-23	2023-24
4179.00	4007.00	4356.00	4933.00	3206.00

81. In the backdrop of our discussions in paragraphs 76-79, of this order above, and considering the actual impact due pay revision for the year 2018-19, as furnished by the Petitioner vide Petition No. 341/MP/2020 for Rs. 2735 lakh, the impact of pay revision for the period 2019-24 has been worked out as under:

<i>(Rs. in lakh)</i>				
2019-20	2020-21	2021-22	2022-23	2023-24
2865.46	3002.14	3145.34	3295.38	3452.57

Impact of revision in Minimum Wages



82. The Petitioner has also claimed the additional O&M expenses of Rs. 333.22 lakh due to the impact of the revision of minimum wages during the period 2019-24 as under:

<i>(Rs. in lakh)</i>				
2019-20	2020-21	2021-22	2022-23	2023-24
53.21	58.29	62.97	87.56	71.19

83. In the backdrop of our discussions in paragraphs 76-79, of this order above, and considering the actual impact due to minimum wages for the year 2018-19, as furnished by the Petitioner vide Petition No. 341/MP/2020 for Rs. 8.92 lakh, the impact of revision in minimum wages for the period 2019-24 has been worked out as under:

<i>(Rs. in lakh)</i>				
2019-20	2020-21	2021-22	2022-23	2023-24
9.35	9.79	10.26	10.75	11.26

Capital Spares

84. Regulation 35(2)(d) of the 2019 Tariff Regulations provides as under:

"35(2)(d)-

The Security Expenses and Capital Spares for hydro generating stations shall be allowed separately after prudence check:

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

85. Regulation 35(2)(d) of the 2019 Tariff Regulations provides that the generating station shall submit the details of the actual capital spares consumed at the time of truing up the tariff, with proper justification.

86. The order dated 3.10.2022 in Petition No. 244/GT/2020 had directed that the capital spares shall be allowed on an actual consumption basis at the time of truing up of tariff, based on the actual expenses, incurred by the Petitioner.

87. The Petitioner has submitted the details of spares consumed for Rs. 374.98 lakh, and has also furnished the year of capitalisation of these spares.



88. It is pertinent to mention that the term “capital spares” has not been defined in the 2019 Tariff Regulations. The term capital spares, in our view, is a piece of equipment, or a spare part, of high cost that is maintained in inventory for use in the event that a similar piece of critical equipment fails or must be rebuilt. Keeping in view the principle of materiality and to ensure standardised practices in respect of earmarking and treatment of capital spares, the value of capital spares exceeding Rs. 1.00 lakh, on a prudence check of the details furnished by the Petitioner in the Petition, has been considered for the purpose of tariff. Based on this, the details of capital spares consumption allowed for the period 2019-24 are summarised below:

	<i>(Rs. in lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Claimed by the Petitioner	111.41	82.55	0.00	167.51	13.52
Less: Minor items (Less than 1 Lakh)	0.00	0.00	0.00	0.00	0.00
Net total value of capital spares considered	111.41	82.55	0.00	167.51	13.52

89. Further, we are of the view that spares do have a salvage value. Accordingly, in line with the practice of considering salvage value, presumed to be recovered by the Petitioner on sale of capital assets, on becoming unserviceable, the salvage value of 10% has been deducted from the cost of capital spares considered above for the 2019-24 Tariff period. Therefore, on a prudence check of the information furnished by the Petitioner and on applying the said ceiling limit along with deduction of the salvage value @10%, the net capital spares allowed in terms of Regulation 35(2)(d) of the 2019 Tariff Regulations are as under:

	<i>(Rs. in lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Net total value of capital spares considered	111.41	82.55	0.00	167.51	13.52
Less: Salvage value @ 10%	11.14	8.25	0.00	16.75	1.35
Net capital spares allowed	100.26	74.29	0.00	150.75	12.17

Security expenses

90. The Petitioner has also claimed security expenses as part of O&M expenses in terms of Regulation 35(2)(d) of the 2019 Tariff Regulations. Further, the Petitioner has submitted the Security Expenses at the actual during the period 2019-24 amounting to Rs. 26634.31 lakh for the purpose of truing up, which are as follows:

<i>(Rs. in Lakhs)</i>				
2019-20	2020-21	2021-22	2022-23	2023-24
1379.11	1285.61	1572.83	1576.62	2127.21

91. The Respondents, RUVITL and BRPL, in their reply have submitted that the Petitioner had earlier claimed Rs. 907.20 lakh as CISF security expenses for the year 2018-19 with an auditor certificate. However, during the period 2019-24, the Petitioner has significantly increased the claim to Rs. 1379.11 lakh for the year 2019-20 by including salaries of private/other security agencies and medical expenses of security personnel, without furnishing any justification or details, despite no increase in plant capacity. The Respondents have further submitted that since the petitioner has failed to submit the required assessment of security needs, work orders, agency details, manpower strength, cadre, salary break-up, or justification for engaging private agencies and claiming medical expenses which were never claimed earlier under this head, the additional claim beyond the earlier approved amount and the same should not be allowed. Further, the Respondent, PSPCL, has submitted that security expenses are allowable separately only after a prudence check and only for personnel actually deployed at the generating station for generation purposes.

92. The Petitioner in its rejoinder has submitted that it has claimed security expenses of Rs. 1379.11 lakh to Rs. 2127.21 lakh for 2019-20 to 2023-24, comprising of CISF salaries, their medical expenses, and charges for ex-servicemen security



personnel provided through Uttarakhand Purv Sainik Kalyan Nigam Limited (UPNL) at the project site and deployment of CISF is mandatory as per Intelligence Bureau recommendations owing to the strategic vulnerability of the power plant. The Petitioner has also clarified that it has submitted the detailed break-up of security expenses, and all supporting documents vide affidavit dated 26.8.2025.

93. It is observed that the security expenses claimed for the plant are in line with the plant-level accounts submitted by the Petitioner and are duly certified by the statutory auditor. The Petitioner vide affidavit dated 26.8.2025 has provided the monthly statement of security expenses for the period 2019-24 along with bills for arms and ammunition, and the recovery cost of the CISF unit and security wing stationed at KHEP. We have reviewed the submissions of the Petitioner. Since the petitioner has certified that the deployment is duly accounted for and actual security expenses have been claimed as per the provisions of the 2019 Tariff Regulations, the security expense claimed by the Petitioner is hereby allowed.

94. Accordingly, in view of the above, the year-wise total O&M expenses allowed for the generating station are as under:

	<i>(Rs. in lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Normative O&M expenses (A) (Regulation 35(2)(a))	13452.46	14093.68	14765.46	15469.26	16206.61
Impact of Wage revision (B)	2865.46	3002.14	3145.34	3295.38	3452.57
Impact of minimum wages (C)	9.35	9.79	10.26	10.75	11.26
Security Expenses (F)	1379.11	1285.61	1572.83	1576.62	2127.21
Capital Spares (G)	100.26	74.29	0.00	150.75	12.17
Total O&M expenses allowed	17806.64	18465.52	19493.89	20502.76	21809.81

Interest on Working Capital

95. Sub-section (c) of clause (1) of Regulation 34 of the 2019 Tariff Regulations provides as under:

"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 expense including security expenses; and

(iii) Operation and maintenance expenses including security expenses for one month"

Working Capital for Receivables

96. Receivables equivalent to 45 days of annual fixed cost are worked out and allowed as under:

(Rs. in lakh)				
2019-20	2020-21	2021-22	2022-23	2023-24
7039.76	7045.85	7031.65	6991.82	7010.19

Working capital for Maintenance Spares

97. Working capital for Maintenance spares @15% of O&M expenses, including security expenses, is worked out and allowed as under:

(Rs. in lakh)				
2019-20	2020-21	2021-22	2022-23	2023-24
2655.96	2758.68	2924.08	3052.80	3269.65

Working capital for O&M Expenses

98. Working capital for O&M expenses, including security expenses for 1 month, is worked out and allowed as under:

(Rs. in lakh)				
2019-20	2020-21	2021-22	2022-23	2023-24
1475.53	1532.60	1624.49	1696.00	1816.47

Rate of Interest on Working Capital

99. As regards the rate of interest on working capital, clause (3) of Regulation 34 of the 2019 Tariff Regulations provides as under:

"34(3) Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.4.2014 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"



100. In terms of the definition of 'Bank Rate', which is defined as one-year marginal cost of lending rate (MCLR) of the State Bank of India plus 350 basis points in the 2019 Tariff Regulations. Accordingly, the interest on working capital is worked out and allowed as under:

	(Rs. in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Working capital for O&M Expenses (one month of O&M Expenses)	1475.53	1532.60	1624.49	1696.00	1816.47
Working capital for Maintenance Spares (15% of operation and maintenance expense)	2655.96	2758.68	2924.08	3052.80	3269.65
Working capital for Receivables (two months of fixed cost)	7039.76	7045.85	7031.65	6991.82	7010.19
Total working capital	11171.24	11337.13	11580.22	11740.62	12096.30
Rate of Working Capital (%)	12.05%	11.25%	10.50%	10.50%	12.00%
Interest on Working Capital	1346.13	1275.43	1215.92	1232.76	1451.56

Annual Fixed Charges approved for the period 2019-24

101. Based on the above, the annual fixed charges approved for the generating station for the period 2019-24 are summarised below:

	(Rs. in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	13540.30	13556.01	13730.70	13587.87	12042.85
Interest on Loan	11376.87	10636.30	9358.94	8145.62	6992.54
Return on Equity	13186.75	13216.38	13235.01	13242.40	14719.44
Interest on Working Capital	1346.13	1275.43	1215.92	1232.76	1451.56
O&M Expenses	17806.64	18465.52	19493.89	20502.76	21809.81
Total	57256.69	57149.64	57034.46	56711.41	57016.19

Note: All figures under each head have been rounded. The figure in total column in each year is also rounded. As such the sum of individual items may not be equal to the arithmetic total of the column.

Normative Annual Plant Availability Factor (NAPAF)

102. Regulation 50(A)(4) of the 2019 Tariff Regulations provides for the Normative Annual Plant Availability Factor (NAPAF) for hydro generating stations already in operation. Accordingly, in accordance with the said Regulation, NAPAF of 68% has been considered for this generating station.

Auxiliary Energy Consumption

103. Regulation 50 (c) of the 2019 Tariff Regulations provides as follows:

Type of Station	Auxiliary Energy Consumption
-----------------	------------------------------

	Installed Capacity above 200 MW	Installed Capacity up to 200 MW
Surface		
Rotating Excitation	0.7%	0.7%
Static	1.0%	1.2%
Underground		
Rotating Excitation	0.9%	0.9%
Static	1.2%	1.3%

104. The generating station is surface with a static excitation system with an installed capacity of 400MW. The Petitioner has submitted the Auxiliary Energy Consumption (AEC) of 1% for the generating station in accordance with the 2019 Tariff Regulations, and the same is considered and allowed.

Design Energy (DE)

105. The Petitioner has submitted that the CEA vide its letter dated 6.8.2012, has approved the annual Design Energy (DE) of the generating station as 1154.84 MU. Accordingly, in consideration of the CEA approval, the Commission vide its order dated 3.10.2022 in Petition No. 244/GT/2020 had considered the annual DE of 1154.84 MU for the generating station for the period 2019-24. Accordingly, the DE of 1154.84 MU has been considered and allowed for the period 2019-24, in this order, as per the month-wise details below:

MONTHS	PERIOD (10 DAYS MONTHLY)	DESIGN ENERGY (MUs)
April	I	29.81
	II	30.6
	III	35.61
May	I	40.11
	II	36.42
	III	42.81
June	I	40.01
	II	42.02
	III	12.6
July	I	13.6
	II	14.1
	III	20.41
August	I	52.12
	II	51.11



	III	67.73
September	I	31.51
	II	33.41
	III	20.31
October	I	22.91
	II	19.61
	III	14.9
November	I	18.91
	II	19.6
	III	20.31
December	I	32.5
	II	33.41
	III	37.81
January	I	35.8
	II	36.41
	III	41.82
February	I	39.42
	II	32.01
	III	35.31
March	I	35.31
	II	35.8
	III	35.71
Total		1154.84

106. The RLDC Fees & charges paid by the Petitioner in terms of the Central Electricity Regulatory Commission (Fees and Charges of Regional Load Dispatch Centre and other related matters) Regulations 2015 shall be recovered from the beneficiaries. In addition, the Petitioner is entitled to the recovery of statutory taxes levies, duties cess, etc., levied by the statutory authorities, in accordance with the 2019 Tariff Regulations.

Summary

107. Accordingly, the annual fixed charges allowed vide order dated 8.11.2024 in Petition No. 60/GT/2020 and the annual fixed charges allowed in this order (after truing up exercise) for the period 2019-24 in respect of the generating station are summarised as under:

	<i>(Rs in lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Annual fixed charges allowed vide order dated 8.11.2024 in Petition No. 60/GT/2024	56558.59	56247.63	55847.87	55566.19	59365.38

Annual Fixed Charges Claimed	58582.58	58169.70	59287.43	58652.89	69244.90
Annual Fixed Charges allowed in this order	57256.69	57149.64	57034.46	56711.41	57016.19

108. The difference between the annual fixed charges recovered by the Petitioner in terms of the order dated 8.11.2024 in Petition No. 60/GT/2024 and the annual fixed charges determined by this order shall be adjusted in terms of the provisions of Regulation 12 & 13 of the 2019 Tariff Regulations.

DETERMINATION OF TARIFF FOR THE 2024-29 TARIFF PERIOD

109. The Petitioner, in this Petition, has also sought a determination of tariff of the generating station for the period 2024-29, in terms of the provisions of the 2024 Tariff Regulations. The annual fixed charges claimed by the Petitioner for the period 2024-29 are as under:

Annual Fixed Charges claimed

	<i>(Rs. in lakh)</i>				
	2024-25	2025-26	2026-27	2027-28	2028-29
Depreciation	8293.91	8390.26	8412.34	8427.34	8432.14
Interest on Loan	15266.54	14574.52	13793.77	13003.31	12200.50
Return on Equity	22141.47	24425.38	24436.34	24437.56	24440.24
Interest on Working Capital	1730.32	1810.24	1856.34	1905.18	1957.02
O & M Expenses	24032.11	25289.35	26615.32	28013.80	29488.75
Total	71464.36	74489.74	75114.11	75787.19	76518.65

Capital Cost

110. Clause (1) of Regulation 19 of the 2024 Tariff Regulations provides that the capital cost as determined by the Commission after a prudence check in accordance with this Regulation shall form the basis of the determination of the tariff for existing and new projects. However, capital cost for an existing project is governed as per clause (3) of Regulation 19 of the 2024 Tariff Regulations, which provides as under:

“(3) The Capital cost of an existing project shall include the following:



- (a) Capital cost admitted by the Commission prior to 1.4.2024 duly trued up by excluding liability, if any, as on 1.4.2024;
- (b) Additional capitalization and de-capitalization for the respective year of tariff as determined in accordance with these regulations;
- (c) Capital expenditure on account of renovation and modernisation as admitted by this Commission in accordance with these regulations;
- (d) Capital expenditure on account of ash disposal and utilization, including handling and transportation facility;
- (e) Capital expenditure incurred towards railway infrastructure and its augmentation for transportation of coal up to the receiving end of generating station but does not include the transportation cost and any other appurtenant cost paid to the railway;
- (f) Capital cost incurred or projected to be incurred by a thermal generating station, on account of implementation of the norms under the Perform, Achieve and Trade (PAT) scheme of the Government of India shall be considered by the Commission subject to sharing of benefits accrued under the PAT scheme with the beneficiaries;
-
- (i) Expenditure on account of change in law and force majeure events”

111. The Petitioner vide Form-1(I) of the Petition has claimed capital cost as follows:

	2024-25	2025-26	2026-27	2027-28	2028-29
Opening Capital Cost	438826.75	441752.18	442038.28	442488.28	442538.28
Add: Addition during the year / period	2925.44	286.10	450.00	50.00	110.00
Less: De-capitalization during the year / period	0.00	0.00	0.00	0.00	0.00
Add: Discharges during the year / period	0.00	0.00	0.00	0.00	0.00
Closing Capital Cost	441752.18	442038.28	442488.28	442538.28	442648.28

112. We, in paragraph 59 of this order, have allowed the closing capital cost of Rs. 339078.96 lakh, as on 31.3.2024. Accordingly, in terms of Regulation 19 of the 2024 Tariff Regulations, the capital cost of Rs. 339078.96 lakh as on 31.3.2024 has been considered as the opening capital cost as on 1.4.2024, for the purpose of determination of tariff for the period 2024-29.

Additional Capital Expenditure

113. Regulation 9(2) of the 2024 Tariff Regulations provides that the application for determination of tariff shall be on admitted capital cost, including capital expenditure already admitted and incurred up to 31.3.2024 (either based on actual or projected additional capital expenditure) and estimated additional capital expenditure for the respective years for the period 2024-29 along with true up for the period 2019-24 in



accordance with the 2019 Tariff Regulations. Relevant clauses of Regulations 25 and 26 of the 2024 Tariff Regulations provide as under:

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

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

- (a) Payment made against award of arbitration or for compliance with the directions or order of any statutory authority, or order or decree of any court of law;
- (b) Change in law or compliance with any existing law which is not provided for in the original scope of work;
- (c) Deferred works relating to ash pond or ash handling system or raising of ash dyke in the original scope of work;
- (d) Payment made towards liability admitted for works within the original scope executed prior to the cut-off date;
- (e) Force Majeure events;
- (f) Works within original scope executed after the cut-off date and admitted by the Commission, to the extent of actual payments made; and

(2) In case of replacement of assets deployed under the original scope of the existing project after the 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) Assets whose useful life 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 a 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.

(e) The additional expenditure, excluding recurring expenses covered in O&M expenses, involved in relation to the renewal of lease of lease hold land on case-to-case basis.

Provided that any claim of additional capitalisation with respect to the replacement of assets under the original scope and on account of obsolescence of technology, less than Rs. 20 lakhs shall not be considered as part of Capital cost and shall be met through normative O&M expenses.

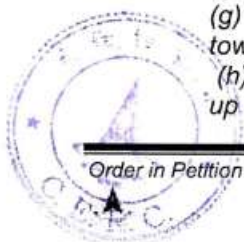
26. Additional Capitalisation beyond the original scope

(1) The capital expenditure, in respect of the existing generating station or the transmission system, including the communication system, incurred or projected to be incurred on the following counts beyond the original scope, may be admitted by the Commission, subject to prudence check:

- (a) Payment made against award of arbitration or for compliance of order or directions of any statutory authority, or order or decree of any court of law;
- (b) Change in law or compliance of any existing law;
- (c) Force Majeure events;
- (d) Need for higher security and safety of the plant as advised or directed by appropriate Indian Government Instrumentality or statutory authorities responsible for national or internal security;
- (e) Deferred works relating to ash pond or ash handling system or raising of ash dyke in addition to the original scope of work, on case-to-case basis:

Provided also that if any expenditure has been claimed under Renovation and Modernisation (R&M) or repairs and maintenance under O&M expenses, the same shall not be claimed under this Regulation;

- (f) Usage of water from the sewage treatment plant in the thermal generating station.
- (g) Works required towards biomass handling system to enable biomass co-firing and towards enabling flexible operation of the generating station as may be required.
- (h) Works pertaining to Railway Infrastructure and its augmentation for transportation of coal up to the receiving end of the generating station (excluding any transportation cost and any



other appurtenant cost paid to railways) that are not covered under Regulation 24, 25 and 27, but shall result in better fuel management and can lead to a reduction in operation costs, or shall have other tangible benefits:

Provided that the generating company shall have to mandatorily seek prior approval of the Commission before implementing such works based on a detailed cost-benefit analysis of such schemes;

(i) Any additional capital expenditure which has become necessary for efficient operation of generating station or transmission system as the case may be, including the works required towards projects acquired through NCLT process. The claim shall be substantiated with the technical justification and cost benefit analysis.

(2) Any claim of additional capitalisation less than Rs. 20 lakhs shall not be considered under Clause (1) of this Regulation and shall be met through normative O&M expenses.

(3) In case of de-capitalisation of assets of a generating company or the transmission licensee, as the case may be, the original cost of such asset as on the date of de-capitalisation shall be deducted from the value of gross fixed asset and corresponding loan as well as equity shall be deducted from outstanding loan and the equity respectively in the year such de-capitalisation takes place with corresponding adjustments in cumulative depreciation and cumulative repayment of loan, duly taking into consideration the year in which it was capitalised.

Provided that in cases where an asset forming part of a scheme is de-capitalised and wherein the historical value of such asset is not available, the value of de-capitalisation shall be computed by de-escalating the value of the new asset by 5% per year until the year of capitalisation of the old asset subject to a minimum of 10% of the replacement cost of the asset."

114. The Petitioner has submitted that the projected additional capital expenditure has been claimed under the provisions of the 2024 Tariff Regulations (including discharge of liabilities) claimed by the Petitioner for the period 2024-29 is as under:

	<i>(Rs in lakh)</i>				
	2024-25	2025-26	2026-27	2027-28	2028-29
Total projected additional capital expenditure to be incurred	2925.44	286.10	450.00	50.00	110.00

115. The Respondents, PSPCL, RUVITL and BRPL, in their replies have raised their following objections towards the additional capital expenditure claimed by the Petitioner - a) The claims made under Regulation 26(1)(d) of the 2024 Tariff Regulations lacks statutory directive or security advisory mandating their requirement, while the justification appears to be of routine maintenance activities/ or O&M nature; b) The claims made under Regulation 25(2)(a) of the 2024 Tariff Regulations merely state the replacement of a weak and defective unit without demonstrating that the asset has completed its useful life and has been fully depreciated, and the Petitioner has not submitted any technical assessment, test reports or depreciation records to



establish its eligibility; and, c) The claims made under Regulation 26(1)(a) of the 2024 Tariff Regulations lacks specific documentary evidence and without furnishing any formal orders, approvals, etc. Furthermore, the Petitioner has claimed "miscellaneous expenses" without providing an itemised justification.

116. The Petitioner, in its rejoinder to the replies filed by the Respondents, has provided justification and requested referencing of annexures provided along with the main Petition towards supporting documents of the claimed additional capital expenditure.

117. We have considered the matter. Based on the submissions of the parties and documents placed on record, we now examine the year-wise capital expenditure claimed by the Petitioner, on a prudence check, as stated in the subsequent paragraphs.

118. The Petitioner has claimed additional capital expenditure, such as procurements of battery banks, heat exchangers, etc., under regulation 25(2)(a) of the 2024 Tariff Regulations. It is noticed that the expenditure claimed is primarily towards the replacement of old items, which were part of the original scope of work and have completed their useful life. Accordingly, the claims of the Petitioner are allowed. However, the Petitioner has not provided de-capitalisation corresponding to the said assets, hence, the de-capitalisation value of old replaced assets has been considered and dealt under 'Assumed Deletions'.

119. The Petitioner has claimed additional capital expenditure relating to R&R expenses, digitization of R&R records, law expenses and other miscellaneous expenses under 26(1)(a) of the 2024 Tariff Regulations. It is observed that the Petitioner has not provided the segregated claims corresponding to each head and its supporting documents; accordingly, the claim of the Petitioner is not allowed.



However, the Petitioner is at liberty to approach the commission with supporting documents and segregated claims at the time of truing up.

2024-25

120. The Petitioner has claimed a total projected additional capital expenditure of Rs. 2925.44 lakh in 2024-25 under the provisions of Regulations 25 and 26 of the 2024 Tariff Regulations, as discussed below.

SI No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulations under which claimed	Justification submitted by the Petitioner	Remarks for Admissibility	Amount allowed (Rs. in lakh)
New Claims						
1	2 nos. 25kL Transformer Oil Storage tanks	20.77	26(1)(d)	For oil storage for maintenance/internal inspection of Generator Transformers.	In our view, the additional capital expenditure incurred by the Petitioner is in the nature of O&M expenses. Hence, the claim of the Petitioner is not allowed . However, the Petitioner is granted liberty to claim the same with relevant supporting documents, at the time of truing up of tariff.	0.00
2	Procurement of battery bank-2	258.76	25(2)(a)	For the replacement of the weak & defective 220V 1820AH battery bank-2.	In light of our decision in paragraph 118 of this order above, the claim is allowed . The de-capitalisation value of old replaced assets has been considered and dealt	258.76
3	Procurement of Battery bank-1	265.51	25(2)(a)	For replacement of weak & defective 220V 1820AH battery bank-1.		265.51
4	Procurement of 1 set of heat	53.43	25(2)(a)	1 set for the replacement of the faulty installed		53.43



SI No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulations under which claimed	Justification submitted by the Petitioner	Remarks for Admissibility	Amount allowed (Rs. in lakh)
	exchangers for GT			heat exchangers of GT.	under 'Assumed Deletions'	
5	Procurement of 1 nos. 123MVA 13.8kV/420 kV Generator Transformer	1719.97	25(2)(a)	At present, Koteswar Project have no spare Generator Transformer to use in place of the defective Generator Transformer, and the present GTs are in operation for more than ten years' time and chances of fault in another GTs may not be ruled out, considering the incidence at the site and problem faced also in one of the Generator Transformers of Tehri HPP. In view of the above and considering the urgency, it is proposed to purchase a new GT of the same rating and specifications to meet our future requirement, as also procured in Tehri HPP, to meet any exigency to reduce the revenue loss.	It is noted that the claimed asset is an additional capital spare, and as per Regulation 37(2)(c) of the 2024 Tariff Regulations, capital spares are to be allowed separately, on an actual consumption basis, as part of the additional O&M expenses. Accordingly, the asset claimed by the Petitioner under this head is not allowed . However, the Petitioner is provided liberty to claim the capital spares under Regulation 37(2)(c) of the 2024 Tariff Regulations, if consumed, at the time of	0.00
6	Procurement of Online Dry out system	75.00	25(2)(a)	For the drying of the generating transformer. During finalisation of the Preservation plan of spare GT, OMS Deptt., Rishikesh submitted the recommendations of the Consultant, Sh. Appa Sarma	truing-up.	0.00



Sl No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulations under which claimed	Justification submitted by the Petitioner	Remarks for Admissibility	Amount allowed (Rs. in lakh)
				for installing the Online dry out system for maintaining the dryness of insulating oil during storage.		
7	Implementation of Differential Protection in 400 kV Lines	45.00	26(1)(b)	In line with the NRPC Guidelines for shortlines, Implementation of Differential Protection in 400 kV Lines is being carried out along with POWERGRID.	The expenditure to be incurred is in compliance with NRPC Guidelines. Accordingly, the expense is allowed . However, the Petitioner is required to provide supporting documents for justification of the same at the time of truing-up for the tariff period 2024-29.	45.00
8	Installation of Servo Valve in Unit # 1 of Koteshwar HEP	30.00	25(2)(a)	In view of the issues/problems with the existing EHT-based HMC and other spare-related issues, installation of the Servo valve-based HMC is being carried out.	In light of our decision in paragraph 117 of this order above, the claim is allowed . The de-capitalisation value of old replaced assets has been considered and dealt under 'Assumed Deletions'	30.00
9	R&R Expenses, Digitization of R&R Records, Law Expenses &	50.00	26(1)(a)	R&R is being implemented as per the decision taken by MOP/ State Govt/ Rehab Directorate, and funds are being released by	In light of our decision in paragraph 119 of this order above, the claim is not allowed .	0.00



Sl No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulations under which claimed	Justification submitted by the Petitioner	Remarks for Admissibility	Amount allowed (Rs. in lakh)
	Other Misc Expenses.			THDCIL accordingly.		
10	Purchasing of fire tender for CISF fire wing of KHEP	120.00	26(1)(d)	CISF Fire wing, KHEP, has one fire tender whose validity is about to expire in the next few months; after that, a tender will be required to be procured.	It has been observed that the claim asset is to be procured on a replacement basis and does not fall under 26(1)(d) of the 2024 Tariff Regulations. Further no documentary evidence has been furnished by the Petitioner in terms of Regulation 26(1)(d) of the 2024 Tariff Regulations. Accordingly, the additional capital expenditure claimed is not allowed . However, the Petitioner is granted liberty to claim the same with relevant supporting documents, at the time of truing up of tariff.	0.00
11	Construction of platform/ramp, pathway and access to jetty platform for training of the high-performance academy for water sports (H.P.A.) at	287.00	26(1)(d)	For the High Performance Academy at HEP Koteshwar.	In our view, the additional capital expenditure incurred by the Petitioner is neither directly nor indirectly related to the operation of the generating station and is in the nature of O&M expenses.	0.00



SI No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulations under which claimed	Justification submitted by the Petitioner	Remarks for Admissibility	Amount allowed (Rs. in lakh)
	HEP koteshwar				Hence, the Petitioner's claim is not allowed .	
Total amount claimed		2925.44				652.70
Total amount allowed						

121. Based on the above, the total additional capital expenditure of Rs. 652.70 lakh is allowed in 2024-25.

2025-26

122. The Petitioner has claimed a total projected additional capital expenditure of Rs. 286.10 lakh in 2025-26 under the provisions of Regulations 25 and 26 of the 2024 Tariff Regulations, which are discussed below:

SI No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulations under which claimed	Justification submitted by the Petitioner	Remarks for Admissibility	Amount allowed (Rs. in lakh)
New Claims						
1	Procurement of CT analyser	20.00	26(1)(d)	For testing of CTs	In our view, the additional capital Expenditure claimed is in the nature of tools and tackles/O&M nature. Accordingly, the additional capital expenditure claimed is not allowed .	0.00
2	Procurement of Cables	50.00	25(2)(a)	Arranging the cables for replacement of old cables to meet eventuality due to failure of old cables.	In light of our decision in paragraph 118 of this order above, the claim is allowed . The de-capitalisation value of old replaced assets has	50.00



Sl No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulations under which claimed	Justification submitted by the Petitioner	Remarks for Admissibility	Amount allowed (Rs. in lakh)
					been considered and dealt with under 'Assumed Deletions De-capitalisations'.	
3	R&R Expenses, Digitization of R&R Records, Law Expenses & Other Misc Expenses.	50.00	26(1)(a)	R&R is being implemented as per the decision taken by MOP/ State Govt/ Rehab Directorate, and funds are being released by THDCIL accordingly.	In light of our decision in paragraph 119 of this order above, the claim is not allowed .	0.00
4	Construction of a dormitory room for drivers in the proposed viewpoint cum LMV parking in front of Tripti Guest House at Koteshwar	166.10	102 & 103	Providing a sufficient parking area in front of Tripti Guest House at HEP, Koteshwar.	In our view, the additional capital expenditure incurred by the Petitioner does not relate to the operation of the generating station and is in the nature of O&M expenses. Hence, the Petitioner's claim is not allowed .	0.00
Total amount claimed		286.10				
Total amount allowed						50.00

123. Based on the above, the total additional capital expenditure of Rs. 50.00 lakh is allowed in 2025-26.

2026-27

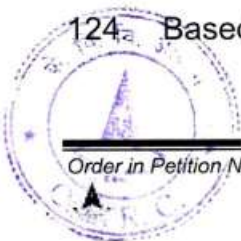
104. The Petitioner has claimed a total projected additional capital expenditure of Rs. 450.00 lakh in 2026-27 under the provisions of Regulations 25 and 26 of the 2024

Tariff Regulations, which are discussed below:



SI No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulations under which claimed	Justification submitted by the Petitioner	Remarks for Admissibility	Amount allowed (Rs. in lakh)
Items already allowed – Spill over Works						
1	R&R Expenses, Digitization of R&R Records, Law Expenses & Other Misc Expenses.	50.00	26(1)(a)	R&R is being implemented as per the decision taken by MOP/ State Govt/ Rehab Directorate, and funds are being released by THDCIL accordingly.	In light of our decision in paragraph 119 of this order above, the claim is not allowed .	0.00
2	Construction of sewerage treatment plant at KHEP	400.00	26(1)(b)	For proper treatment and disposal of sewage in the residential/non-residential colony area, as per the NGT requirements, at HEP, Koteswar.	Since no documentary evidence has been furnished by the Petitioner in terms of Regulation 26(1)(b) of the 2024 Tariff Regulations, the additional capital expenditure claimed is not allowed . However, the Petitioner is granted liberty to claim the same with complete details of the subject works and the total expenditure envisaged for the same with necessary supporting documents, at the time of truing up the tariff.	0.00
Total amount claimed		450.00				
Total amount allowed						0.00

124. Based on the above, no additional capital expenditure is allowed in 2026-27.



2027-28

125. The Petitioner has claimed a total projected additional capital expenditure of Rs. 50.00 lakh in 2027-28 under the provisions of Regulations 25 and 26 of the 2024 Tariff Regulations, which are discussed below:

Sl No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulations under which claimed	Justification submitted by the Petitioner	Remarks for Admissibility	Amount allowed (Rs. in lakh)
New Claims						
1	R&R Expenses, Digitization of R&R Records, Law Expenses & Other Misc Expenses.	50.00	26(1)(a)	R&R is being implemented as per the decision taken by MOP/ State Govt/ Rehab Directorate, and funds are being released by THDCIL accordingly.	In light of our decision in paragraph 119 of this order above, the claim is not allowed .	0.00
Total amount claimed		50.00				
Total amount allowed						0.00

126. Based on the above, no additional capital expenditure is allowed in 2027-28.

2028-29

127. The Petitioner has claimed a total projected additional capital expenditure of Rs. 110.00 lakh in 2028-29 under the provisions of Regulations 25 and 26 of the 2024 Tariff Regulations, which are discussed below:

Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulations under which claimed	Justification submitted by the Petitioner	Remarks for Admissibility	Amount allowed
1	Procurement of 220 V DC 300 AH Battery Bank at 400 kV Koteshwar KHEP Switchyard.	60.00	25(2)(a)	For the replacement of a 220V 300 AH Battery Bank at 400 kV Koteshwar KHEP Switchyard.	In light of our decision in paragraph 118 of this order above, the claim is allowed . The de-capitalisation value of old replaced assets has	60.00



Sl. No.	Head of Work/ Equipment	Amount Claimed (Rs. in lakh)	Regulations under which claimed	Justification submitted by the Petitioner	Remarks for Admissibility	Amount allowed
					been considered and dealt under 'Assumed Deletions'	
2	R&R Expenses, Digitization of R&R Records, Law Expenses & Other Misc Expenses.	50.00	26(1)(a)	R&R is being implemented as per the decision taken by MOP/ State Govt/ Rehab Directorate, and funds are being released by THDCIL accordingly.	In light of our decision in paragraph 119 of this order above, the claim is not allowed.	0.00
Total amount claimed		110.00				
Total amount allowed						60.00

128. Based on the above, the total additional capital expenditure of Rs. 60.00 lakh is allowed in 2028-29.

Discharge of liabilities

129. The Petitioner has not claimed any discharges for the generating station during the period 2024-29.

De-capitalization

130. The Petitioner has not claimed any depreciation during the period 2024-29 for the generating station. However, we have worked out the corresponding de-capitalisation under "Assumed Deletions" for the aforesaid assets, as discussed below:

Assumed Deletion

De-capitalisation of items replaced under additional capitalisation



131. As per the consistent methodology adopted by the Commission, expenditure on the replacement of assets, if found justified, is allowed for tariff purposes, provided that the capitalisation of the said asset is followed by the de-capitalisation of the original value of the old asset. However, in certain cases where de-capitalisation is affected in books during the following years up to the year of capitalisation of the new asset, the de-capitalisation of the old asset for tariff purposes is shifted to the very same year in which the capitalisation of the new asset is allowed. Such decapitalization, which is not a book entry in the year of capitalisation, is termed "Assumed Deletion". Further, in the absence of the asset's gross value being decapitalised, the same is calculated by de-escalating the gross value of the new asset at 5% per annum until the year of capitalisation of the old asset.

132. It is observed that the Petitioner has claimed the asset/work, such as the procurement of battery bank, heat exchangers, cables, installation of the servo valve, etc., on a replacement basis. However, the Petitioner has not furnished the de-capitalisation value of the old assets/works, which are proposed to be replaced. Accordingly, based on the above methodology, the assumed deletion considered for these assets/works is also as under:

(Rs. in lakh)

Sl.No.	Items claimed under Additional Capitalisation	Additional capitalisation claimed for new assets under replacement	Assumed Deletions Allowed
2024-25			
1	Procurement of battery bank-2	258.76	158.86
2	Procurement of Battery bank-1	265.51	163
3	Procurement of 1 set heat exchangers for GT	53.43	32.80
4	Installation of Servo Valve in Unit # 1 of Koteshwar HEP	30	18.42
Total 2024-25		577.70	373.07
2025-26			
1	Procurement of Cables	50.00	29.23
Total 2025-26		50.00	29.23
2028-29			

1	Procurement of 220 V DC 300 AH Battery Bank at 400 kV Koteswar KHEP Switchyard.	60.00	30.30
Total 2028-29		60.00	30.30

133. The Petitioner is directed to provide the actual decapitalization at the time of true up for the period 2024-29.

Additional capital expenditure allowed (Net) for the 2024-29 period

134. Accordingly, the additional capital expenditure allowed for the generating station for the period 2024-29 is summarised below:

	<i>(Rs. in lakh)</i>				
	2024-25	2025-26	2026-27	2027-28	2028-29
Additional capital expenditure allowed (a)	652.70	50.00	0.00	0.00	60.00
Less: De-capitalization considered (b)	373.07	29.23	0.00	0.00	30.30
Discharge of Liability (c)	0.00	0.00	0.00	0.00	0.00
Net additional capital expenditure allowed (d)=(a)-(b)+(c)	279.62	20.77	0.00	0.00	29.70

Capital Cost allowed

135. Based on the above, the capital cost allowed for the purpose of tariff for the period 2024-29 is as under:

	<i>(Rs. in lakh)</i>				
	2024-25	2025-26	2026-27	2027-28	2028-29
Opening Capital Cost allowed (A)	339078.96	339358.58	339379.35	339379.35	339379.35
Additional capital expenditure within scope (B)	607.70	50.00	0.00	0.00	60.00
Additional capital expenditure beyond scope (C)	45.00	0.00	0.00	0.00	0.00
Less: De-capitalization (incl. Assumed Deletions) (D)	373.07	29.23	0.00	0.00	30.30
Discharge of Liability(E)	0.00	0.00	0.00	0.00	0.00
Net additional capital expenditure allowed (F=B+C-D+E)	279.62	20.77	0.00	0.00	29.70
Closing Capital Cost allowed (G=A+F)	339358.58	339379.35	339379.35	339379.35	339409.04

Debt-Equity Ratio

136. Regulation 18 of the 2024 Tariff Regulations provides as under:



“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 the approval of the competent authority in other cases regarding the 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 the case of the generating station and the transmission system, including the communication system declared under commercial operation prior to 1.4.2024, the debt-equity ratio allowed by the Commission for the determination of tariff for the period ending 31.3.2024 shall be considered:

Provided that in the case of a generating station or a transmission system, including a communication system which has completed its useful life as on 1.4.2024 or is completing its useful life during the 2024-29 tariff period, if the equity actually deployed 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 96 of these regulations.

(4) In the case of the generating station and the transmission system, including communication system declared under commercial operation prior to 1.4.2024, but where debt: equity ratio has not been determined by the Commission for determination of tariff for the period ending 31.3.2024, 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 1.4.2024 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.”

137. Gross normative loan and equity amounting to Rs. 257260.19 lakh and Rs. 81818.78 lakh, respectively, as on 31.3.2024, as considered in paragraph 62 above, have been considered as normative loan and equity as on 1.4.2024. The normative debt-equity ratio of 70:30 has been considered for the admitted additional capital expenditure. The details of the debt-equity ratio considered are shown as under:



(Rs. in lakh)

Asset	As on 1.4.2024		Additional Capital Expenditure during 2024-29		De-capitalization during 2024-29		As on 31.3.2029	
	Amount	%	Amount	%	Amount	%	Amount	%
Debt	257260.19	75.87%	533.89	70.00%	338.73	78.30%	257455.34	75.85%
Equity	81818.78	24.13%	228.81	30.00%	93.88	21.70%	81953.71	24.15%
Total	339078.97	100%	762.70	100%	432.61	100%	339409.05	100%

Return on Equity

138. Regulations 30 and 31 of the 2024 Tariff Regulations provide as under:

“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;

(3) Return on equity for new project achieving COD on or after 01.04.2024 shall be computed at the base rate of 15.00% for the transmission system, including the communication system, at the base rate of 15.50% for Thermal generating station and run-of-river hydro generating station and at the base rate of 17.00% for storage type hydro generating stations, pumped storage hydro generating stations and run-of-river generating station with pondage;

Provided that return on equity in respect of additional capitalization beyond the original scope, including additional capitalization on account of the emission control system, Change in Law, and Force Majeure shall be computed at the base rate of one-year marginal cost of lending rate (MCLR) of the State Bank of India plus 350 basis points as on 1st April of the year, subject to a 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 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 an 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, the rate of return on equity shall be reduced by 1.00% for the period for which the deficiency continues;

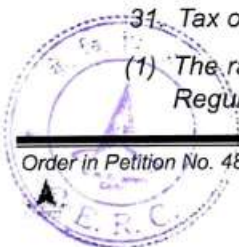
iii. in the case of a thermal generating station:

a) rate of return on equity shall be reduced by 0.25% in case of failure to achieve the ramp rate as specified under Regulation 45(9) of IEGC Regulations, 2023.

b) an additional rate of return on equity of 0.125% shall be allowed for every incremental ramp rate of 0.50% per minute achieved over and above the ramp rate specified by Central Electricity Authority, subject to the ceiling of additional rate of return on equity of 1.00%:

31. Tax on Return on Equity:

(1) The 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.



The effective tax rate 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 concerned generating company or the transmission licensee by excluding the income of non-generation or non-transmission business, as the case may be, and the corresponding tax thereon.

Provided that in case a generating company or transmission licensee is paying 59 Minimum Alternate Tax (MAT) under Section 115JB of the Income Tax Act, 1961, the effective tax rate shall be the MAT rate, including surcharge and cess;

Provided further that in case a generating company or transmission licensee has opted for Section 115BAA, the effective tax rate shall be tax rate including surcharge and cess as specified under Section 115BAA of the Income Tax Act, 1961.

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

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

- (3) The generating company or the transmission licensee, as the case may be, shall true up the effective tax rate for 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 2024-29 on actual gross income of any financial year. Further, any penalty arising on account of delay in deposit or short deposit of tax amount shall not be considered while computing the actual tax paid for the generating company or the transmission licensee, as the case may be

Provided that in case a generating company or transmission licensee is paying Minimum Alternate Tax (MAT) under Section 115JB, 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 with the applicable MAT rate including surcharge and cess.

Provided that in case a generating company or transmission licensee is paying tax under Section 115BAA, 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 with the tax rate including surcharge and cess as specified under Section 115BAA.

Provided that 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 a year-to-year basis."

139. The Return on Equity (RoE) for the existing asset base and additional capital expenditure allowed in this order for asset/work, within the original scope of work, has been calculated by grossing up base RoE at the MAT rate of 17.472% as submitted by the Petitioner. Further, based on the additional capital expenditure that is beyond the original scope and allowed in this order, RoE has been calculated, considering the weighted average rate of interest of the relevant year and MAT rate. Accordingly, RoE has been worked out and allowed as under:

(Rs. in lakh)

	2024-25	2025-26	2026-27	2027-28	2028-29



Return on Equity on Add Cap within Original Scope					
Opening Equity (A)	80310.43	80411.79	80420.44	80420.44	80420.44
Additions due to additional capitalization (B)	182.31	15.00	0.00	0.00	18.00
Addition due to discharge of liabilities (C)	0.00	0.00	0.00	0.00	0.00
Less: Decrease due to decapitalization (D)	80.96	6.34	0.00	0.00	6.58
Closing Equity (E)=(A)+(B)+(C)-(D)	80411.79	80420.44	80420.44	80420.44	80431.87
Average Equity (F)=(A+E)/2	80361.11	80416.12	80420.44	80420.44	80426.16
Base Rate (%) (G)	16.500%	16.500%	16.500%	16.500%	16.500%
Effective Tax Rate (%) (H)	17.472%	17.472%	17.472%	17.472%	17.472%
Effective ROE Rate (%) (I) = G/(1-H)	19.993%	19.993%	19.993%	19.993%	19.993%
Return on Equity (J)= (F)*(I)	16066.60	16077.59	16078.46	16078.46	16079.60
Return on Equity on Add Cap beyond Original Scope					
Normative Equity- Opening (A1)	1508.35	1521.85	1521.85	1521.85	1521.85
Additions due to additional capitalization (B1)	13.50	0.00	0.00	0.00	0.00
Addition due to discharge of liabilities (C1)	0.00	0.00	0.00	0.00	0.00
Less: Decrease due to decapitalization (D1)	0.00	0.00	0.00	0.00	0.00
Normative Equity – Closing (E1)=(A1)+(B1)+(C1)-(D1)	1521.85	1521.85	1521.85	1521.85	1521.85
Average Normative Equity (F1)=(A1+E1)/2	1515.10	1521.85	1521.85	1521.85	1521.85
Base Rate (%) (G1)	12.150%	12.500%	12.500%	12.500%	12.500%
Effective Tax Rate (%) (H1)	17.472%	17.472%	17.472%	17.472%	17.472%
Effective ROE Rate (%) (I1) = G1/(1-H1)	14.722%	15.146%	15.146%	15.146%	15.146%
Return on Equity (J1)= (F1)*(I1)	223.05	230.50	230.50	230.50	230.50
Total Return on Equity (J+J1)	16289.65	16308.09	16308.96	16308.96	16310.10

Interest on Loan

140. Regulation 32 of the 2024 Tariff Regulations provides as under:

32. Interest on loan capital:

(1) The loans arrived at in the manner indicated in Regulation 18 of these Regulations shall be considered gross normative loans for the calculation of interest on loans.

(2) The normative loan outstanding as on 1.4.2024 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2024 from the gross normative loan.

(3) The repayment for each of the years of the Tariff period 2024-29 shall be deemed to be equal to the depreciation allowed for the corresponding year or period. In case of de-capitalization of assets, the repayment shall be adjusted by taking into account cumulative repayment on a pro rata basis, and the adjustment should not exceed cumulative depreciation recovered up to the date of de-capitalisation of such asset.

(4) Notwithstanding any moratorium period availed of by the generating company or the transmission licensee, as the case may be, the repayment of the 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.



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(5) The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio or allocated loan portfolio;

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

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

Provided that the rate of interest on the loan for the installation of the emission control system commissioned subsequent to date of commercial operation of the generating station or unit thereof, shall be the weighted average rate of interest of the actual loan portfolio of the emission control system, and in the absence of the actual loan portfolio, the weighted average rate of interest of the generating company as a whole shall be considered, subject to a ceiling of 14%;

Provided further that if the generating company or the transmission licensee, as the case may be, does not have any actual loan, then the rate of interest for a loan shall be considered as 1-year MCLR of the State Bank of India as applicable as on April 01, of the relevant financial year.

(6) The interest on the 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.

141. The salient features for the computation of interest on a loan are summarised below:

- a) The gross normative loan amounting to Rs. 257260.19 lakh as on 31.3.2024 has been considered as on 1.4.2024 as per paragraph 62.
- b) Cumulative repayment Rs.159358.89 lakh as on 31.3.2024 has been considered as on 1.4.2024;
- c) The repayments for the respective years of the period 2024-29 has been considered equal to the depreciation allowed for that year.
- d) The actual loan portfolio has been fully repaid during 2024-25. It is observed that the Petitioner has revised the interest rates for PNB and BOB in its revised tariff forms for the period 2019-24. Accordingly, the same rate of interest corresponding to these loans has been considered during 2024-25 for the calculation of WAROI, subject to truing up. Accordingly, the Commission has considered the last available WAROI of 8.14% of 2024-25 for all the respective years of the period 2024-29.

142. Accordingly, Interest on loan has been worked out as under:

	(Rs. In Lakhs)				
	2024-25	2025-26	2026-27	2027-28	2028-29
Gross Normative loan - Opening (A)	257260.19	257424.96	257437.07	257437.07	257437.07
Cumulative repayment of Normative loan up to previous year (B)	159358.89	164378.32	169572.99	174782.95	179992.92
Net Normative loan - Opening (C=A-B)	97901.30	93046.64	87864.08	82654.11	77444.15
Add : Net Addition due to additional capital expenditure (D)	164.77	12.11	0.00	0.00	18.27

	2024-25	2025-26	2026-27	2027-28	2028-29
Repayment during the year (E) =Depreciation	5197.45	5209.05	5209.97	5209.97	5210.52
Less : Cumulative repayment adjustment on a/c of decapitalization (F)	178.02	14.38	0.00	0.00	16.30
Net Repayment (G)=(E)-(F)	5019.43	5194.67	5209.97	5209.97	5194.22
Net Loan - Closing (H=C+D-G)	93046.64	87864.08	82654.11	77444.15	72268.20
Average Normative loan (I)=(C+H)/2	95473.97	90455.36	85259.10	80049.13	74856.17
Weighted average rate of interest (J)	8.14%	8.14%	8.14%	8.14%	8.14%
Interest on Loan (K=I*J)	7773.35	7364.74	6941.67	6517.48	6094.68

Depreciation

143. Regulation 33 of the 2024 Tariff Regulations provides as under:

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

(3) The salvage value of the asset shall be considered as 10%, and depreciation shall be allowed up to the 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 the 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 the 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 the 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 a reservoir in case of a hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing the depreciable value of the asset.

(5) Depreciation for Existing Projects shall be calculated annually based on the Straight-Line Method and at rates specified in Appendix-I to these Regulations for the assets of the generating station and transmission system:

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

Provided further that in the case of an existing hydro generating station, the generating company, with the consent of the beneficiaries, may charge depreciation at a rate lower than that specified in Appendix I and Appendix II to these Regulations to reduce front loading of Tariff.



- (1) Depreciation for New Projects shall be calculated annually based on the Straight-Line Method and at rates specified in Appendix-II to these Regulations for the assets of the generating station and transmission system:

Provided that the remaining depreciable value as on 31st March of the year closing after a period of 15 years from the effective date of commercial operation of the generating station or the transmission system, as the case may be, shall be spread over the balance useful life of the assets.

Provided further that in the case of a new hydro generating stations, the generating company, with the consent of the beneficiaries, may charge depreciation at a rate lower than that specified in Appendix II to these Regulations to reduce front loading of Tariff.

(7) *In the case of the existing projects, the balance depreciable value as on 1.4.2024 shall be worked out by deducting the cumulative depreciation as admitted to by the Commission up to 31.3.2024 from the gross depreciable value of the assets.*

(8) *The generating company or the transmission licensee, as the case may be, shall submit the details of capital expenditure proposed to be incurred during five years before the completion of useful life along with proper justification and proposed life extension. The Commission, based on prudence check of such submissions, shall approve the depreciation by equally spreading the depreciable value over the balance Operational Life of the generating station or unit thereof or fifteen years, whichever is lower, and in case of the transmission system shall equally spread the depreciable value over the balance useful life of the Asset or 10 years whichever is higher.*

(9) *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-capitalised asset during its useful service.*

(10) *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 (9) of this Regulation.*

(11) *Depreciation of the emission control system of an existing generating station that is yet to complete its useful life 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 the straight-line method at rates specified in Appendix- I to these Regulations;*

Provided that the remaining depreciable value as on 31st March of the year closing after a period of 12 years from the date of operation of such emission control system shall be spread over the balance period of thirteen years or balance operational life of generating station, whichever is lower;

Provided also that in case the date of operation of the emission control system is after the 20th year of commercial operation of the generating station or unit thereof, but before the completion of the useful life of the generating station, the depreciation on emission control system (ECS) shall be computed annually from the date of operation of such ECS based on the straight line method, with a salvage value of 10% and the depreciable value shall be recovered till the operational life of the generating station

(12) *In case the date of operation of the emission control system is subsequent to the date of completion of the useful life of generating station commercial operation of the generating station or unit thereof, depreciation of ECS shall be computed annually from the date of operation of such emission control system based on the straight line method, with a salvage value of 10% and recovered over ten years or a period mutually agreed by the generating company and the beneficiaries, whichever is higher."*

144. Accordingly, the cumulative depreciation amounting to Rs. 159358.89 lakh, admitted by the Commission as on 31.3.2024, has been considered for the purpose of tariff. Since the generating station completed 12 years of operation in 2023-24, the



remaining depreciable value has been spread over the balance useful life of the assets. Accordingly, depreciation has been computed, as under:

	(Rs. in lakh)				
	2024-25	2025-26	2026-27	2027-28	2028-29
Opening Capital Cost (A)	339078.96	339358.58	339379.35	339379.35	339379.35
Net Additional capital expenditure during year (B)	279.62	20.77	0.00	0.00	29.70
Closing Capital Cost (C=A+B)	339358.58	339379.35	339379.35	339379.35	339409.04
Average Capital Cost (D)=(A+C)/2	339218.77	339368.96	339379.35	339379.35	339394.20
Freehold Land(E)	461.78	461.78	461.78	461.78	461.78
IT Equipment & Software(F)	63.06	63.06	63.06	63.06	63.06
Rate of Depreciation (G)	3.84%	3.84%	3.84%	3.84%	3.84%
Total Depreciable Value (F=(D-E-F)*90%))+ F	304887.60	305022.77	305032.12	305032.12	305045.48
Remaining Depreciable Value at the beginning of the year (G=F-Cum Dep at 'L' at the end of previous year)	145528.71	140644.45	135459.13	130249.16	125052.56
Balance useful Life (H)	28.00	27.00	26.00	25.00	24.00
Depreciation (I=G/H)	5197.45	5209.05	5209.97	5209.97	5210.52
Cumulative Depreciation at the end of the year (J=I+Cum Dep at 'L' at the end of previous year)	164556.34	169587.37	174782.95	179992.92	185203.44
Less: Depreciation adjustment on account of de-capitalisation (K)	178.02	14.38	0.00	0.00	16.30
Net Cumulative Depreciation at the end of the year (L)	164378.32	169572.99	174782.95	179992.92	185187.14

Operation & Maintenance Expenses

145. Regulation 36 (2) (a) of the 2024 Tariff Regulations provides the O&M expense norms for the hydro generating stations which have been operational for three or more years as on 1.04.2024, as given under:

“(2) Hydro Generation Station:

The following operations and maintenance expense norms shall be applicable for hydro generating stations which have been operational for three or more years as on 1.4.2024:

(Rs. In lakh)

	2024 – 25	2025-26	2026 – 27	2027 – 28	2028 – 29
<i>KHEP</i>	20749.20	21883.71	23080.25	24342.21	25673.18

- a. In the case of the hydro generating stations declared under commercial operation on or after 1.4.2024, operation and maintenance expenses of the first year shall be fixed at 3.5% and 5.0% of the original project cost (excluding the cost of rehabilitation & resettlement works, IDC and IEDC) for stations with installed capacity exceeding 200 MW and for stations with installed capacity less than or equal to 200 MW, respectively and shall be subject to annual escalation of 5.47% per annum for the subsequent year.



- b. In the case of hydro generating stations which have not completed a period of three years as on 1.4.2024, operation and maintenance expenses for 2024-25 shall be worked out by applying an escalation rate of 5.47% on the applicable operation and maintenance expenses as on 31.3.2024. The operation and maintenance expenses for subsequent years of the Tariff period shall be worked out by applying an escalation rate of 5.47% per annum.
- c. The Security Expenses, Capital Spares and Insurance expenses arrived through competitive bidding for hydro generating stations shall be allowed separately after prudence check: Provided that the generating station shall submit the assessment of the security requirement, capital spares and insurance expenses along with its estimated expenses, which shall be trued up based on the details of year-wise actual capital spares consumed, actual insurance and security expenses incurred with appropriate justification."

Provided further that the value of capital spares exceeding Rs. 10 lakh shall only be considered for reimbursement at the time of truing up with appropriate justification for incurring the same and substantiating that the same is not claimed as a part of additional capitalisation or consumption of stores and spares and renovation and modernization."

146. The Petitioner has claimed total O&M expenses for the period 2024-29 as under:

	<i>(Rs. in lakh)</i>				
	2024-25	2025-26	2026-27	2027-28	2028-29
Normative O&M expenses Regulation 36(2) (a)	20749.20	21883.71	23080.25	24342.21	25673.18
Estimated Security Expenses (b)	2243.57	2366.29	2495.73	2632.24	2776.23
Consumption of Capital Spares (c)	75.00	75.00	75.00	75.00	75.00
Estimated Insurance Expenditures (d)	964.35	964.35	964.35	964.35	964.35
Total O&M Expenses Claimed (a+b+c+d)	24032.11	25289.35	26615.32	28013.80	29488.75

147. As the Petitioner has claimed normative O&M expenses in accordance with Regulation 36(2) of the 2024 Tariff Regulations as above, the same is allowed. However, as per Regulation 36(2)(c) of the 2024 Tariff Regulations, Security Expenses, Capital Spares and Insurance expenses are also required to be considered at the time of determination of tariff for the period 2024-29. Accordingly, the allowable expenses, in addition to normative O&M expenses allowable, in accordance with Regulation 36(2)(c) of the 2024 Tariff Regulations, are dealt with in the following paragraphs.



Security expenses:

148. The Petitioner has submitted that it has claimed the estimated security expenses for the period 2024-29 based on actual security expenditure during 2023-24 by escalating @ 5.47 % from 2024-25 onwards.

149. We have considered the claim of the Petitioner, and accordingly, the approved security expense for 2023-24 (Rs. 2127.21 lakh) is escalated @ 5.47% (rate considered for escalating the normative O&M expense) each year to arrive at the O&M expenses for the 2024-29 period. The Petitioner is directed to submit the actual expenditure incurred on security expenses at the time of truing up. Accordingly, the estimated security expenses allowed for 2024-29, subject to true-up, are as under:

	<i>(Rs. in lakh)</i>				
	2024-25	2025-26	2026-27	2027-28	2028-29
Estimated Security Expenses	2243.57	2366.29	2495.73	2632.24	2776.23

Capital spares

150. The Petitioner has claimed Rs. 75 lakh for each of the years during the period 2024-29. Further, the Petitioner has submitted that the amount has been arrived at by averaging the capital spares consumed during the period 2024-29, and that the actual figures will be submitted at the time of truing up based on actual consumption.

151. The matter has been considered. Accordingly, the claim of the Petitioner is not allowed and shall be considered at the time of truing up the tariff based on the actual consumption basis.

Insurance expenses:

152. The Petitioner has submitted that the Insurance expenses for the year 2024-25 are based on the cost of insurance awarded on the basis of competitive bidding and the same have been considered for the balance period 2025-29. The Petitioner has also submitted a project-wise break up of Insurance premiums paid for the year 2024-25 and a copy of the insurance invoice for the same.



153. The matter has been considered. Based on the actual amount of insurance premium paid by the Petitioner for 2024-25, the same has been projected for each year for the period 2024-29. The Petitioner is directed to submit the actual expenditure on account of insurance expenses at the time of truing up. Accordingly, the estimated insurance expenses allowed for 2024-29, subject to true-up, are as under:

	(Rs. In Lakhs)				
	2024-25	2025-26	2026-27	2027-28	2028-29
Estimated Insurance Expenses	964.35	964.35	964.35	964.35	964.35

154. Accordingly, the year-wise O&M expenses allowed for the generating station are as under:

	(Rs. in lakh)				
	2024-25	2025-26	2026-27	2027-28	2028-29
Normative O&M expenses (Regulation 35(2)(a)) (A)	20749.20	21883.71	23080.25	24342.21	25673.18
Security Expenses (B)	2243.57	2366.29	2495.73	2632.24	2776.23
Capital Spares (C)	0.00	0.00	0.00	0.00	0.00
Insurance (D)	964.35	964.35	964.35	964.35	964.35
Total O & M expenses, including Security charges (E=A+B+C+D)	23957.12	25214.35	26540.33	27938.80	29413.76

Interest on Working Capital

155. Regulation 34(1)(d) of Tariff Regulations provides as under:

“34. Interest on Working Capital:

(1) The working capital shall cover

(d) 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 expense including security expenses; and

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

156. The Petitioner has claimed Interest on working capital in terms of the above regulations as under:

	(Rs. in lakh)				
	2024-25	2025-26	2026-27	2027-28	2028-29
Working capital for O&M Expenses (1 month of O&M Expenses) (A)	1597.93	1627.26	1729.77	1852.83	1805.87
Working capital for Maintenance Spares (15% of O&M expense) (B)	2876.28	2929.07	3113.59	3335.09	3250.56

Working capital for Receivables (AFC for 45 days) (C)	7202.78	7171.61	7309.41	7231.18	8513.72
Total working capital (D=A+B+C)	11676.99	11727.94	12152.77	12419.10	13570.14
Rate of Working Capital (%) (E)	12.050%	11.250%	10.500%	10.500%	12.000%
Interest on Working Capital (F=D*E)	1407.08	1319.39	1276.04	1304.01	1628.42

Working Capital for Receivables

157. Receivables equivalent to 45 days of annual fixed cost are worked out and allowed as under:

(Rs. in lakh)

2024-25	2025-26	2026-27	2027-28	2028-29
6742.00	6861.89	6979.88	7087.13	7244.04

Working Capital for Maintenance Spares

158. Maintenance spares@ 15% of O&M expenses, including security expenses, is worked out and allowed as under:

(Rs. in lakh)

2024-25	2025-26	2026-27	2027-28	2028-29
3593.57	3782.15	3981.05	4190.82	4412.06

Working Capital for O&M expenses

159. O&M expenses, including security expenses for one month, are allowed as under:

(Rs. in lakh)

2024-25	2025-26	2026-27	2027-28	2028-29
1996.43	2101.20	2211.69	2328.23	2451.15

Rate of Interest

160. Regulation 34(3) of the 2024 Tariff Regulations provides as under:

"34(3) Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.4.2024 or as on 1st April of the year during the Tariff period 2024-29 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 2024-29."



161. In terms of Regulations 34(3) and 3(66) of the 2024 Tariff Regulations, the rate of interest on working capital shall be considered as 11.90% (i.e. One-year SBI MCLR of 8.65% as on 1.4.2024 plus 325 basis points) for the period 2024-29. Further, the aforesaid rate of interest is subject to truing up based on one-year SBI MCLR as on 1st April of the respective years of the period 2024-29. The tariff of the generating station is being determined in the year 2025-26, and one-year SBI MCLR as on 1.4.2024 (i.e. 8.65%) and 1.4.2025 (i.e. 9.00%) are available. Hence, in order to safeguard against additional interest burden due to excess/ under recovery of tariff, we deem it prudent to consider the rate of interest on working capital for the year 2024-25 as 11.90% and for the period 2025-29 as 12.25% (i.e. One year SBI MCLR of 9.00% as on 1.4.2025 plus 325 bps), subject to truing up. Accordingly, interest on working capital is computed as under:

162. Accordingly, interest on working capital is worked out and allowed as under:

	<i>(Rs. in lakh)</i>				
	2024-25	2025-26	2026-27	2027-28	2028-29
Working capital for O&M Expenses (1 month of O&M Expenses)	1996.43	2101.20	2211.69	2328.23	2451.15
Working capital for Maintenance Spares (15% of O&M expense)	3593.57	3782.15	3981.05	4190.82	4412.06
Working capital for Receivables (AFC for 45 days)	6742.00	6861.89	6979.88	7087.13	7244.04
Total working capital	12331.99	12745.24	13172.62	13606.18	14107.25
Rate of Working Capital (%)	11.90%	12.25%	12.25%	12.25%	12.25%
Interest on Working Capital	1467.51	1561.29	1613.65	1666.76	1728.14

Annual Fixed Charges approved for the period 2024-29

163. Based on the above, the annual fixed charges approved for the generating station for the period 2024- 29 are summarised as under:

	<i>(Rs. in lakh)</i>				
	2024-25	2025-26	2026-27	2027-28	2028-29
Depreciation	5197.45	5209.05	5209.97	5209.97	5210.52
Interest on Loan	7773.35	7364.74	6941.67	6517.48	6094.68
Return on Equity	16289.65	16308.09	16308.96	16308.96	16310.10
Interest on Working Capital	1467.51	1561.29	1613.65	1666.76	1728.14
O&M Expenses	23957.12	25214.35	26540.33	27938.80	29413.76

	2024-25	2025-26	2026-27	2027-28	2028-29
Total	54685.08	55657.53	56614.57	57641.97	58757.20

Note: All figures under each head have been rounded. The figure in the total column in each year is also rounded. As such the sum of individual items may not be equal to the arithmetic total of the column.

Normative Annual Plant Availability Factor (NAPAF)

164. The Petitioner has claimed NAPAF of 66% in accordance with Regulation 71 (A) (4) of the 2024 Tariff Regulations, which provides the Normative Annual Plant Availability Factor (NAPAF) for hydro generating stations already in operation. Accordingly, in terms of the said Regulation, NAPAF of 66% has been considered for this generating station.

Design Energy (DE)

165. The order dated 3.10.2022 in Petition No. 244/GT/2020, had considered the annual Design Energy (DE) of 1154.84 Million units (MU) for this generating station. Accordingly, the same has been considered for the generating station for the period 2024-29 as per the month-wise details as under:

MONTHS	PERIOD (10 DAYS MONTHLY)	DESIGN ENERGY (MU)
April	I	29.81
	II	30.6
	III	35.61
May	I	40.11
	II	36.42
	III	42.81
June	I	40.01
	II	42.02
	III	12.6
July	I	13.6
	II	14.1
	III	20.41
August	I	52.12
	II	51.11
	III	67.73
September	I	31.51
	II	33.41
	III	20.31
October	I	22.91
	II	19.61
	III	14.9



MONTHS	PERIOD (10 DAYS MONTHLY)	DESIGN ENERGY (MU)
November	I	18.91
	II	19.6
	III	20.31
December	I	32.5
	II	33.41
	III	37.81
January	I	35.8
	II	36.41
	III	41.82
February	I	39.42
	II	32.01
	III	35.31
March	I	35.31
	II	35.8
	III	35.71
TOTAL		1154.84

Statutory Charges

Water Tax

166. The Petitioner has submitted that the issue pertaining to the validity of the Uttarakhand Water Tax on Electricity Generation Act, 2012 ("Water Tax Act") is pending disposal before the Hon'ble High Court of Uttarakhand vide Special Appeal No. 149 of 2021 ("Special Appeal"). The Petitioner states that the arguments in the matter are being heard by the Hon'ble High Court as on the date of filing of this petition.

167. The Petitioner has filed Petition No. 302/MP/2022 on 13.9.2022 ("CIL Petition") before the Commission under Section 79(1)(f) of the Electricity Act, 2003, seeking approval of "Change in Law" and compensation for the financial impact of the Uttarakhand Water Tax on the generating station. The Petitioner has also submitted that the tariff proposals made in this petition are exclusive of any statutory taxes, levies, duties, cess, environmental cess or any other kind of imposition(s) whatsoever imposed/charged by any Government (Central/State) and/or any other local bodies/authorities/ regulatory authorities in relation to generation of electricity including auxiliary consumption or any other types of consumption including water, transmission of power, environmental protection, sale or on supply of power/energy,

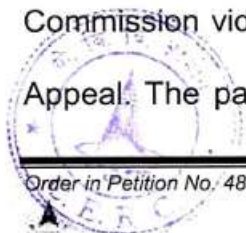
and/or in respect of any of its installations associated with generating stations and/or on transmission system and the same is to be borne and additionally be paid by the Respondents to the Petitioner and the same may be permitted to be charged in the monthly bills raised by the Petitioner on the Respondents in proportion to Annual Capacity Charges payable by the Respondents.

168. The Respondents, PSCPCL, RUVITL and BRPL in their replies, have objected to the expenditure sought by the Petitioner in relation to the Water Tax. The Respondents have submitted that the Special Appeal has been heard and reserved for final order by the Hon'ble High Court as on 17.6.2025. In view of the same, the Respondents have prayed that the Petitioner may not be allowed to recover Water Tax dues from the beneficiaries till the time a final order is passed by the Hon'ble High Court. The Petitioner, in its rejoinder to the said replies, has submitted that it may be allowed to recover Water Tax dues from the beneficiaries, since it is regularly making the payment of Water Tax dues to the Government of Uttarakhand.

169. The matter has been considered. In relation to recovery of Water Tax dues, we point out that all the beneficiaries except one have made the payments towards water tax, relevant excerpts of RoP dated 28.4.2025 in Petition No. 302/MP/2022 are reproduced:

"During the hearing, the learned counsel for the Petitioner submitted that in compliance with the directions of the Hon'ble High Court of Uttarakhand, the Petitioner is making regular payments towards water tax, and in case of any non-recovery, the same will result in cash flow problems for the project. He also pointed out that, except for the Respondent PSCPCL, all other beneficiaries have made the payments towards the Water tax invoices. Accordingly, the learned counsel submitted that the IA filed by it for modification of the interim order dated 27.7.2023 may be allowed, thereby permitting the Petitioner to take coercive action against the Respondent.

170. We further note that the hearing in the said Petition has been adjourned by the Commission vide RoP dated 18.9.2025, in light of the pending status of the Special Appeal. The parties in Petition No. 302/MP/2022 have been granted liberty by the



Commission to mention the matter as and when the final order of the Hon'ble High Court is passed in Special Appeal:

"At the outset, the learned counsels appearing for the Respondents submitted that since the Hon'ble High Court of Uttarakhand has reserved its orders in the Special Appeal No. 149/2021 filed by THDC, challenging the constitutional validity of the Uttarakhand Water Tax on Electricity Generation Act, 2012, these petitions may be taken up for hearing, after a final decision of the Hon'ble Court in the said appeal. This was not objected to by the learned counsel for the Petitioner.

2.... However, the parties are at liberty to mention for the listing of these petitions, in case the said appeal is disposed of before the aforementioned date."

171. From perusal of RoP's passed in CIL Petition, it is observed that currently the Petitioner is recovering Water Tax dues from its beneficiaries, except PSPCL, and consequently making the payment of Water Tax to the Government of Uttarakhand. *Per contra*, the Special Appeal preferred before the Hon'ble High Court, whereby the legality of the Water Tax Act has been challenged by the Petitioner, was reserved on 17.6.2025, and the final order is awaited. In view of this background, we deem it appropriate to await the final order in said Special Appeal.

Green Cess

172. The Petitioner has also claimed Rs. 8447.48 lakhs towards the green cess imposed by the State of Uttarakhand vide notification dated 3.1.2015 ("notification") as a contingent liability. The Petitioner has stated that the tariff proposals made by it are exclusive of any statutory taxes, cess, levies, duties, etc., and has prayed that it may be allowed/ permitted to recover the said taxes, cess, etc., from its beneficiaries by issuing monthly bills.

173. The Petitioner has submitted that it has challenged the notification before the Hon'ble High Court of Uttarakhand vide Petition No. WPMS No. 469 of 2016 and the same is pending disposal as of the date.

174. The matter has been considered. Keeping in view the pendency of WPMS No. 469 of 2016, whereby the validity of the green cess has been challenged by the



Petitioner, we deem it proper to await the decision of the Hon'ble High Court in the matter. The Petitioner is at liberty to approach the Commission vide a separate Petition under Regulation 56 of 2019 Tariff Regulations as and when the final decision in WPMS No. 469 of 2016 is rendered by the Hon'ble High Court.

Application Fee and Publication Expenses

175. The Petitioner has sought the reimbursement of fees paid by it for filing the tariff petition in terms of CERC (Payment of Fee) Regulations, 2012 (as amended). The Petitioner has also submitted that the filing fee in respect of the remaining years of tariff period 2024-29 will be remitted by the Petitioner by 30th April of the respective year in compliance with the above Regulation. The Petitioner has also sought reimbursement of publication expenses for the notice of tariff petition in the newspapers in accordance with the CERC (Conduct of Business) Regulations, 2023. In terms of Regulation 94 of the 2024 Tariff Regulations, the Petitioner shall be entitled to the reimbursement of filing fees and publication expenses in connection with the present petition, directly from the beneficiaries, on a pro-rata basis.

176. The Petitioner has also sought the reimbursement of statutory charges imposed by the State and Central Government. Accordingly, in terms of Regulation 77 of the 2024 Tariff Regulations, the Petitioner is entitled to the reimbursement of statutory charges by considering normative parameters specified in the 2024 Tariff Regulations directly from the beneficiaries.

177. The RLDC Fees & charges paid by the Petitioner in terms of the Central Electricity Regulatory Commission (Fees and Charges of Regional Load Dispatch Centre and other related matters) Regulations 2019 shall be recovered from the beneficiaries in line with Regulation 94(3) of the 2024 Tariff Regulations. In addition, the Petitioner is entitled to the recovery of charges determined under CERC (Sharing

of Interstate Transmission Charges & losses) Regulations, 2020, as amended from time to time in line with Regulation 78 of the 2024 Tariff Regulations.

178. Accordingly, the annual fixed charges for the period 2024-29 allowed are as shown as under:

	(Rs. In lakh)				
	2024-25	2025-26	2026-27	2027-28	2028-29
Annual fixed charges claimed	71464.36	74489.74	75114.11	75787.19	76518.65
Annual fixed charges allowed	54685.08	55657.53	56614.57	57641.97	58757.20

179. The annual fixed charges allowed hereinabove for the 2024-29 period are subject to truing up, under Regulation 13 of the 2024 Tariff Regulations.

180. Petition No. 485/GT/2024 is disposed of in terms of the above.


Sd/-
(Ravinder Singh Dhillon)
Member

Sd/-
(Harish Dudani)
Member

Sd/-
(Ramesh Babu V.)
Member

Sd/-
(Jishnu Barua)
Chairperson

(i) Name of the applicant... 1649/2024
 (ii) Name of the applicant... Sh. Neeraj Kumar (AGM) THD
 (iii) Date when received of the application... 27/4/24
 (iv) No. of pages... 104 pages
 (v) Copy of fees receipt... Free copy
 (vi) Date when work is ready... 28/4/24
 (vii) Date of delivery... (28-29/4/24)


 Authorized Signatory



**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.60/GT/2024

Coram:

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

Date of Order: 8th November 2024

In the matter of:

Petition seeking revision of tariff of Koteshwar Hydroelectric Project (400 MW) for the period 2019-24 on account of interim truing-up, limited to meet the liabilities as per the Arbitration award dated 17.12.2010 read with the orders of the Hon'ble Delhi High Court dated 13.12.2019, 12.7.2023, 28.7.2023 paid by THDCIL on 27.1.2020 and 31.8.2023, in terms of Regulation 13(3), Regulations 76 and 77 of the Tariff Regulations, 2019.

And

In the matter of:

THDC India Limited,
Pragati Puram, Bypass Road,
Rishikesh-249201, Uttarakhand

.....Petitioner

Vs

1. Punjab State Power Corporation Limited,
The Mall, Patiala – 147001 (Punjab)
2. Haryana Power Utilities,
Shakti Bhawan, Sector 6,
Panchkula – 134 109 (Haryana)
3. Uttar Pradesh Power Corporation Limited,
Shakti Bhawan, 14 Ashok Marg,
Lucknow – 226001 (UP)
4. BSES Rajdhani Power Limited,
BSES Bhawan, Nehru Place,
Behind Nehru Place Bus Terminal,
New Delhi-110019
5. BSES Yamuna Power Limited,
3rd Floor, Shakti Kiran Building,
Karkardooma, Near Court,
New Delhi-110092



6. Tata Power Delhi Distribution Limited,
33 KV Grid Sub-Station Building, Hudson Lane,
Kingsway Camp, Delhi-110009
7. Chandigarh Administration,
1st Floor, UT Secretariat, Sector 9-D,
Chandigarh-160009
8. Uttarakhand Power Corporation,
Limited, Urja Bhawan, Kanwali Road,
Dehradun-248001
9. Himachal Pradesh State Electricity Board Limited,
Vidyut Bhawan, Shimla-171004
10. Jaipur Vidyut Vitran Nigam Limited,
Vidyut Bhawan, Janpath, Jyotinagar,
Jaipur-302005 (Rajasthan)
11. Ajmer Vidyut Vitran Nigam Limited,
Old Powerhouse, Hatthi Bhatta, Jaipur road,
Ajmer-305001 (Rajasthan)
12. Jodhpur Vidyut Vitran Nigam Limited,
New Powerhouse, Industrial Area,
Jodhpur-342003 (Rajasthan)
13. Power Development Department,
Government of J&K, Civil Secretariat,
Jammu -180001 (J&K)
14. Madhya Pradesh Power Management Company Limited,
3rd Floor, Block No. 11, Shakti Bhawan,
Rampur, Jabalpur- 482008 (MP)
15. Rajasthan Urja Vikas Nigam Limited,
Vidyut Bhawan, Jiyoti Nagar,
Jaipur- 302005 (Rajasthan)
16. J&K State Power Trading Company Limited,
PDD Complex, Bemina,
Srinagar -190010 (J&K)

.... Respondents

Parties Present:

Shri M.G. Ramachandran, Senior Advocate, THDC
Ms. Anushree Bardhan, Advocate, THDC
Ms. Surbhi Kapoor, Advocate, THDC



Ms. Shirsa Saraswati, Advocate, THDC
Shri Mohit Jain, Advocate, BSES Discoms
Shri Sachin Dubey, Advocate, BSES Discoms
Shri Mohit K. Mudgal, Advocate, BSES Discoms
Shri Venkatesh, Advocate, TPDDL
Shri Nihal Bhardwaj, Advocate, TPDDL
Ms. Manu Tiwari, Advocate, TPDDL
Shri Ashutosh Srivastava, Advocate, TPDDL
Ms. Jaya, BSES Discoms

ORDER

This Petition has been filed by the Petitioner, THDC India Limited, with the following main prayers:

- (a) *The Hon'ble Commission may be pleased to undertake truing-up of tariff of Koteshwar Hydroelectric Project (400 MW) for the period 2019-24, taking in to account the submissions made hereinabove and, in the forms, and annexures filed herewith permitting the petitioner to recover the Annual Fixed Cost of Rs.56558.58 lakh, Rs 56247.63 lakh, Rs 55847.87 lakh, Rs 55566.19 lakh & Rs 66387.42 lakh for the financial year 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24 respectively.*
- (b) *Direct that the amount that THDCIL had to deposit on 27.1.2020 and 31.8.2023 in terms of the orders of the Hon'ble High Court of Delhi dated 13.12.2019, 12.7.2023, 28.7.2023 with regard to the Arbitral Award dated 17.12.2010, to be allowed as a revenue requirement and pass through in tariff subject to further adjustments to be made as per the proceedings regarding the arbitration which is pending before the High Court of Delhi.*

Background

2. The Petitioner, THDC India Limited (THDCIL), is a Joint Venture Company between Govt. of India and the Govt. of Uttar Pradesh. Subsequently, a Share Purchase Agreement was executed between NTPC Limited and the President of India on 25.3.2020 for the acquisition of legal and beneficial ownership of equity held by the President of India in THDCIL (which represents 74.496% of the total paid up share capital of THDCIL by NTPC Limited). THDCIL is now a subsidiary of NTPC Limited, having a shareholding pattern of 74.496% with NTPC Limited and 25.504% with the Govt. of Uttar Pradesh.

3. Koteshwar Hydroelectric Project (400 MW), being a part of the Tehri Hydro Power Complex, comprises Tehri HPP Stage-I (1000 MW), Tehri Pumped Storage Plant (1000



MW), and downstream power station, i.e., Koteshwar Hydroelectric Project (400 MW) in Tehri Garhwal in the State of Uttarakhand. Thus, the entire Tehri Power Complex has an aggregate capacity of 2400 MW. The Tehri HPP Stage-I (1000 MW) has already been commissioned, and the Tehri Pumped Storage Plant (1000 MW) is under construction. The actual date of commercial operation of the units of the Koteshwar Hydroelectric Project are as under:

Unit-I	1.4.2011
Unit-II	26.10.2011
Unit-III	13.2.2012
Unit-IV	1.4.2012

4. The Petitioner has entered into PPAs with the Respondents for the capacity generated from the project. The power allocation from the generating station had been notified on 8.8.2007 by the Ministry of Power, Govt. of India. Accordingly, in Petition No.165/GT/2017 filed by the Petitioner, the Commission vide order dated 5.9.2018 approved the tariff of the generating station for the period 2011-14. Aggrieved by the order dated 5.9.2018, the Petitioner filed a review petition on various issues, and the same was disposed of vide Commission's order dated 16.4.2019. The Petitioner has also filed Appeal No.23/2019 against this order before the Appellate Tribunal for Electricity (APTEL), and the same is pending. Meanwhile, vide Commission's order dated 9.10.2018, the tariff of the generating station for the period 2014-19 was approved. Aggrieved by the said order, the Petitioner filed a review petition on certain grounds and the same was disposed of vide Commission's order dated 4.6.2019. Against this order also, the Petitioner has filed Appeal No.126/2021 before the APTEL and the same is pending.



Present Petition

5. The Petitioner, in support of the prayers in para 1 above, has submitted the following:

- (a) The present petition is filed for determination of tariff for the period 2019-24 for the generating station by way of interim truing up, subsequent to the decisions dated 13.12.2019, 12.7.2023, and 28.7.2023 passed by the Hon'ble High Court, Delhi with regard to the Arbitral Award related to THDCIL v PCL ILC JV matter dated 17.12.2010, which adversely affected the cash flow of THDCIL. The sequence of events has been dealt with more fully hereunder:

Dates	Details
26.12.2001	THDCIL invited tender for Construction of Civil Works of Dam, Spillway and Powerhouse at Koteshwar with certain pre-qualification criteria for a party to participate regarding technical knowhow and financial capacity.
25.2.2002	M/s PCL-ILC JV participated in the Tender and submitted its proposal. It met the pre-qualification criteria due to the technical knowhow brought in by its JV partner M/s. Intertech Lendhydro, a Russian Consortium.
31.8.2002	THDCIL issued the Letter of Award to M/s PCL-Intertech Lenhydro Consortium JV for a total sum of Rs. 3345166092. The contract was for a period of 45 months from 31.8.2002 (i.e. 31.5.2006). Copy of the Letter of Award dated 31.8.2002 is annexed as Annexure-VI
14.11.2002	Formal contract agreement entered into between the parties. This was an item rate contract and the contract amount as per the bill of quantities and scope of work was Rs. 3345166092. Copy of the agreement is annexed as Annexure-VII
16.6.2007	M/s. PCL-ILC JV invoked clause 60 of GCC for seeking arbitration for first seven claims.
1.12.2007	M/s. PCL-ILC JV invoked the arbitration clause for claims 8 to 14.
10.1.2008	Parties agreed that the arbitral tribunal will adjudicate all the claims from 1 to 14.
8.2.2008	Date of filing of statement of claims by M/s. PCL-ILC JV.
12.4.2008	Date of filing of statement of defence by THDCIL.
7.11.2008	Petitioner filed the counter claims.
17.12.2010	The Arbitral Tribunal passed the arbitral award and awarded a sum of Rs. 71 crores plus revision of rates for scheduled items of work amounting to Rs. 111 crores (approx.) as on 31.5.2006 along with interest @12% for the pre-award period and @18% from the date of award till the date of payment. Copy of the Arbitral Award dated 17.12.2010 is annexed as Annexure-VIII
14.1.2011	Petitioner filed OMP (Comm.) 303 of 2020 under Section 34 of the Arbitration and Conciliation Act, 1996 before the Hon'ble Delhi High Court challenging the Arbitral Award dated 17.12.2010.
20.5.2019	PCL-ILC JV filed a Petition [OMP (Enf.) (Comm) 91 of 2019] under Section 36 of Arbitration and Conciliation Act, 1996 before the Hon'ble Delhi High Court for enforcement of the Arbitral Award dated 17.12.2010.
13.12.2019	The Hon'ble Delhi High Court in OMP (Enf.) (Comm) No. 91/2019 directed the Petitioner to make part deposit of Rs. 450 crores due under the arbitral award with the Registrar General of the Delhi High Court. Copy of the order dated 13.12.2019 is annexed as Annexure-IX

Dates	Details
27.1.2020	Petitioner complied with the direction and deposited Rs. 450 crores vide Demand Draft in favour of Registrar General, High Court of Delhi at New Delhi.
19.5.2020	The Registrar General of the Hon'ble Delhi Court directed the release of Rs. 450 crores to the M/s PCL-ILC JV upon furnishing bank guarantees for an equivalent amount.
12.7.2023	The Single Judge of the Delhi High Court vide judgement in O.M.P (Comm.) 303/2020 upheld the majority arbitral award, except for the grant of pre-award interest @12%. Copy of the order dated 12.7.2023 is annexed as Annexure-X
28.7.2023	The Hon'ble Delhi High Court in OMP (Enf.) (Comm) No. 91/2019 directed the Petitioner to verify the calculation of the outstanding decretal amount and deposit the same in the Registry before 31.8.2023. Further, it was directed that this amount shall be kept in an interest-bearing FDR and shall be subject to further order/s in these proceedings. Copy of the order dated 28.7.2023 is annexed as Annexure-XI .
22.8.2023	Petitioner filed Appeal [F.A.O(OS) (Comm.) 184/2023] under Section 37 of Arbitration and Conciliation Act, 1996 before the Hon'ble Delhi High Court against the said judgement dated 12.7.2023 in O.M.P(Comm.) No.303 of 2020 and to set aside the Arbitral Award dated 17.12.2010.
31.8.2023	Petitioner complied with the direction of the Hon'ble High Court vide Order dated 28.7.2023, as per its calculation of the outstanding decretal amount and deposited Rs. 1010.25 crores vide Demand draft in favour of Registrar General, High Court of Delhi.

- (b) Arguments in the appeal proceedings filed by THDCIL in FAO(OS) (Comm) No.184/2023 stand completed on 19.10.2023, and judgment has been reserved by the Division Bench of the Hon'ble High Court of Delhi. The enforcement matter OMP (Enf) (Comm) 91/2019 is pending.
- (c) Thus, the above substantial amount deposited by THDCIL has adversely affected the cash flow of THDCIL. THDCIL had disclosed the contingent liability and interest thereon as Rs 131545.55 lakhs as on 31.3.2019 in Petition No. 245/GT/2020 and in Petition No. 244/GT/2020, respectively.
- (d) The power to remove difficulties and the power to relax are well-known methods of legislative drafting. The Petitioner had not filed an interim truing up petition in 2021-22 under Regulation 13(3) of the 2019 Tariff Regulations as the annual fixed cost was not increased by more than 20% over the annual fixed cost as determined by the Commission for the respective years of the tariff period till 31.3.2021.
- (e) The cause has arisen subsequent to the Arbitral award dated 17.12.2010 and Hon'ble Delhi High Court's judgment dated 13.12.2019, 12.7.2023 and 28.7.2023 against the Arbitral award related to THDCIL v PCL ILC JV matter as explained above. The total awarded amount is Rs 1460.25 crore (approx.), i.e., (Principal amount of Rs 475.70 crore and Interest amount of Rs 984.55 crore).

- (f) THDCIL deposited the full decretal amount of Rs.450 crore as per the order dated 13.12.2019 and Rs.1010.25 crore as per the order dated 28.7.2023 before the Registrar, Delhi High Court. In light of the above facts and circumstances, THDCIL is seeking this Commission to invoke its power to relax and power to remove difficulty by undertaking the interim truing up process.
- (g) The basis of the power to relax and power to remove difficulties have been considered by the Hon'ble Supreme Court in Premium Granites & anr v State of Tamil Nadu & ors (1994) 2 SCC 691; Hindustan Paper Corporation Limited v Govt of Kerala (1986) 3 SCC 398 and Hindustan Steels Ltd V A.K.Roy (1969) 3 SCC 513.
- (h) The present petition is per proviso to Regulations 10, 13, 25, 26, 35(2), 76, 77 and other applicable regulations of the 2019 Tariff Regulations. The present petition has been filed along with the tariff filing forms, taking into consideration the liabilities of THDCIL, as per the Arbitral award dated 17.12.2010 read with the orders of the Hon'ble Delhi High Court dated 13.12.2019, 12.7.2023, 28.7.2023 and paid by THDCIL on 27.1.2020 and 31.8.2023. The rest of the aspects for the period 2019-24 for the generating station will be claimed /modified /submitted by THDCIL at the time of truing up of tariff proceedings under Regulation 13(1) of the 2019 Tariff Regulations.
- (i) Tariff forms for the period 2019-24 have been certified by the Auditors based on the actual additional capital expenditure, limited to meet the liabilities as per Arbitral award dated 17.12.2010 read with the orders of the Hon'ble Delhi High Court dated 13.12.2019, 12.7.2023, 28.7.2023 and paid by THDCIL on 27.1.2020 and 31.8.2023.
- (j) The annual fixed cost in respect of the generating station for the period 2019-24 based on the 2019 Tariff Regulations, taking into consideration the liabilities to meet the arbitration award dated 17.12.2010 read with the orders of the Hon'ble Delhi High Court and paid by THDCIL on 27.1.2020 and 31.8.2023 works out to Rs.56558.58 lakh, Rs 56247.63 lakh, Rs 55847.87 lakh, Rs 55566.19 lakh & Rs 66387.42 lakh for the years 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24 respectively, as per the details given in Form-I.
- (k) The Commission may direct the Respondent beneficiaries to make payments to THDCIL for the bills raised by the Petitioner for the supply of power energy to them from the generating station.



Hearing dated 18.3.2024

6. The matter was heard on 'admission' on 18.3.2024, and the Commission, after hearing the submissions of the learned counsel for the Petitioner, 'admitted' the Petition and issued directions to the parties to complete their pleadings. In response, BRPL and TPDDL have submitted their replies vide affidavits dated 29.5.2024 and 20.5.2024, respectively, and the Petitioner has filed its rejoinder to the said replies vide affidavits dated 2.7.2024 and 31.5.2024.

Reply of the Respondents

7. The Respondents, TPDDL and BRPL, have, in their replies, mainly submitted the following:

Respondent TPDDL

(A) The relief(s) sought by the Petitioner in the present Petition is bereft of any merit and deserves to be dismissed for the following reasons:

(i) The invocation of the Commission's power to remove difficulties and to relax the regulations in effect is to amend the Tariff Regulations, 2019, which is beyond the scope of this Commission's power as intended in the current regulatory framework.

(ii) The Commission has consciously considered the middle of the control period 2019-24. i.e., 2021-22, to file the application for interim truing-up and not the last financial year, i.e., 2023-24, in order to streamline the tariff and to control any variation between the actual and approved tariff in the middle of the control period and not in the last financial year 2019-24

(iii) It can be inferred from Regulation 13(3) of the 2019 Tariff Regulations that the application for interim truing-up has to be filed if there is an increase of more than 20% in the AFC for all the years. However, in the present petition, there is an increase of 20% in AFC only for 2023-24. Therefore, the Petitioner cannot file an application for interim truing-up as it is not as per the terms of the 2019 Tariff Regulations.

(iv) The Petitioner has filed the interim true-up petition after a delay of two years, which is beyond the timeframe stipulated in Regulation 13(3) of the 2019 Tariff Regulations. Moreover, given that the tariff period 2019-24 is nearing its end, the Petitioner must file a fresh tariff petition for the truing-up exercise by 30.11.2024 as



per Regulation 13(2). Filing a fresh petition for final true-up at this juncture would prevent unnecessary duplication of proceedings and ensure regulatory efficiency.

(v) The beneficiaries, including this Respondent, cannot be burdened with the additional capital expenditure arising from the arbitral award dated 17.10.2010 and the subsequent orders passed by the Hon'ble Delhi High Court. These costs were incurred due to THDCIL's own failure to provide a conducive working environment and the necessary specifications, which directly led to financial and operational setbacks for the claimant.

(vi) It is inappropriate for the Petitioner to pass on the increased annual fixed cost, including the accrued interest to the beneficiaries due to the Petitioner's own delays in challenging the arbitral award and in seeking recourse from this Commission to claim the cost of the arbitral award.

(vii) The Petitioner has failed to make timely payments to the claimant, which has led to the increase in interest and carrying costs; the Respondents should not be held liable for this additional financial burden, which is a direct result of the Petitioner's management and operational lapses.

(viii) The Petitioner has not provided any substantial documentation to support its claim of increased annual fixed costs, particularly lacking details of the loans taken and the associated financial impact.

Preliminary objections

Re: Power to remove difficulties and Relax cannot be invoked by THDCIL

(ix) Regulation 13(3) of the 2019 Tariff Regulations categorically stipulates that an application for interim true-up must be filed within the year 2021-22 if AFC for the generating station increases by more than 20% over the costs determined by this Commission for the corresponding years of 2019-24. The explicit mention of the year 2021-22, during which to file, underscores a clear legislative intent to impose a strict timeline for such filings, ensuring that regulatory adjustments are both timely and predictable for effective financial and regulatory planning.

(x) The Petitioner inter alia has requested this Commission to use its "Power to Relax" and "Power to Remove Difficulty" despite being aware that there is no provision within the existing 2019 Tariff Regulations permitting the filing of interim true-up Petition beyond the stipulated timeframe.

(xi) The power to relax and the power to remove difficulties cannot be exercised to amend or modify the regulations. The 'power to relax' and 'power to remove difficulties' must be exercised in a conditioned and restricted manner, and such exercise of power should not change the basic structure, scheme, and essential provisions of the statute. [Reliance placed on the judgment of the Hon'ble Supreme



Court in M.U. Sinai Vs. Union of India [(1975) 2 SCR 640]. The APTEL, in its judgment dated 11.1.2022 in Appeal No. 101/2017 and Appeal No.110/2017, while relying on the judgment of the Hon'ble Supreme Court in M.U. Sinai case was inter alia pleased to hold that the power to remove difficulty cannot be invoked to amend the proviso to Regulation 29(1) substantially read with the proviso to Regulation 1 (2) of the 2014 Tariff Regulations.

(xii) Any relaxation of standard regulations should only occur in exceptional cases where non-relaxation would lead to hardship or injustice. However, the Petitioner has failed to establish its reasons for such an inordinate delay in the filing of the present Petition for the interim true-up. Regulation 77 providing for Power to Remove Difficulty is intended to address difficulties in implementing the regulations themselves, not difficulties arising from their application to particular circumstances (judgment of APTEL in Appeal No.130/2009 (RGPPL v CERC & anr relied upon)

(xiii) The challenges faced by the Petitioner were related to operational issues within the context of the regulations, not ambiguities or challenges in the regulations themselves. Thus, as per the above settled legal position to the present case, the present Petition seeking modification/amendments in the applicable Regulations under an exercise of power to relax/remove difficulties is not maintainable and is liable to be dismissed.

(xiv) it is a settled position in law that regulations promulgated by a Regulatory Commission have statutory force and are binding on all parties, including the Commission itself [*PTC India Ltd. v. CERC, (2010) 4 SCC 603*]. Thus, in terms of the settled position of law, this Commission must adhere strictly to the Regulations it has promulgated when determining tariffs and should dismiss the present Petition seeking interim true-up of tariff for the generating station as deemed non-maintainable for being contrary to the 2019 Tariff Regulations and seeking amendment/modification thereto.

(xv) The Petitioner was well aware of the liability of the payment of arbitral award and the requirement of filing the petition seeking interim true-up in 2021-22 in accordance with the 2019 Tariff Regulations. However, if the Petitioner has not visualized and factored in such regulatory charges, it is a matter of overlooking by the Petitioner, which cannot be relaxed by amending/modifying the prevalent regulations.

(xvi) In light of these regulatory requirements, and to maintain regulatory compliance and financial transparency, it would be most appropriate for the Petitioner to initiate a fresh petition. This new petition would be filed for ruing up of the tariff for the generating station from 1.4.2019 to 31.3.2024. This approach would allow for an accurate reflection of the financial activities and adjustments based on the audited accounts available up to 31.3.2024.

Respondent TPDDL cannot be burdened with the additional cost accrued on account of Petitioner's own fault

(xvii) The enforcement and execution of the arbitral award remain pending before the Hon'ble High Court of Delhi. Consequently, the additional capital expenditure claimed under this account has not been approved at this stage. Therefore, the Petitioner should only claim these expenditures after the final decision of the Hon'ble Court and in accordance with the applicable regulations

(xviii) The Petitioner has sought to impose on the beneficiaries the burden of meeting liabilities arising from the arbitral award and directives of the Hon'ble High Court of Delhi, which are attributable solely to the Petitioner. Thus, allowing utilities to pass on the costs of their inefficiencies to consumers contradicts the very purpose of regulation, which is to protect consumer interests while ensuring a sustainable and economical supply of electricity.

(xix) It is further evident that the Petitioner encountered significant delays in fulfilling its financial obligations under the arbitral award. This delay has led to an accumulation of interest charges, further exacerbating the financial burden on the beneficiaries, including this Respondent. The Petitioner's initial reluctance or delay in making these payments led to subsequent legal directives enforcing compliance. It was not until 27.1.2020, following the order dated 13.12.2019 from the Hon'ble Delhi High Court, that the Petitioner deposited Rs. 450 crores. Another payment was made on 31.8.2023, as directed by the High Court on 28.7.2023. These payments were significantly delayed considering the date of the original arbitral award in 2010, indicating that THDCIL had deferred addressing its financial obligations for nearly a decade.

(xx) In the present case, the Petitioner has sought reliefs despite the arbitral award establishing that numerous delays and cost overruns were primarily due to THDCIL's own managerial and operational inefficiencies. Furthermore, the current petition for interim true-up has been filed after an inordinate delay. Reliance is also placed on *Ajay Kumar Radheyshyam Goenka v. Tourism Finance Corporation of India Ltd.*, (2023) 10 SCC 545.

(xxi) The tariff charged by the Respondent is determined by DERC in accordance with the Electricity Act, 2003, read with the Rules and Regulations framed thereunder. Therefore, if this Commission allows the revision of tariffs for the period from 2019-24, on account of interim trueing up to meet the liabilities paid by the Petitioner on 27.1.2020 and 31.8.2023, pursuant to the arbitration award and the orders of the Hon'ble Delhi High Court, such a decision would result in an onerous financial burden on the public. This is because the increased expenses of the Respondent would ultimately be passed on to consumers through higher tariffs, which would be detrimental to the public interest.



(xxii) The Petitioner has failed to provide any documentary evidence to verify whether the works awarded to the contractor were within the original scope, whether they were completed and capitalized before the cut-off date, or whether the amounts claimed are balance payments for works capitalized prior to the cut-off date.

Respondent BRPL

(xxiii) The present petition filed by Petitioner is not maintainable as per Regulation 13 (3) of the 2019 Tariff Regulations, as the same is time-barred. The Petitioner has filed the present petition on 29.12.2023; however, as per aforesaid regulation, a generating company can make an application for interim truing up of tariff in the year 2021-22. Since in the present case Petitioner has sought interim truing up beyond the prescribed duration, therefore, the same is time-barred and liable to be dismissed.

(xxiv) The power to relax under Regulations 76 is a judicial discretion, and the same cannot be invoked to contradict a specific provision where there is no ambiguity regarding the process of filing an interim truing up petition. Further, the Power to Remove difficulty under Regulation 77 of the Tariff Regulations, 2014, can be exercised with due care. The Hon'ble Supreme Court in Mahadeva **Upendra Sinai, etc. Vs. Union of India & Ors. [1975 AIR 797, 1975 SCR (2) 640]** has laid down the scope of the exercise of power to remove difficulty provided in a statute.

(xxv) The tariff for the period 2019-24 was over on 31.3.2024, and therefore, the Petitioner can file the truing up petition for the period 2019-24 along with the tariff for the period 2024-29, as provided under the applicable Tariff Regulations instead of filing the interim truing up petition, after the prescribed period.

No additional capitalization to be allowed without a prudence check

(xxvi) Without prejudice to aforesaid arguments, the claim of additional capitalization sought by the Petitioner by way of the present interim truing up cannot be allowed without prudence check. In the present interim truing up petition, the Petitioner has sought additional capitalization under Regulations 25 and 26 of the CERC Regulations, 2019 on account of liabilities incurred due to an arbitration award dated 17.12.2010 and a decision passed by Hon'ble High Court of Delhi on 12.7.2023.

(xxvii) In this regard, it is submitted that Regulations 25 and 26 of the CERC Regulations 2019 clearly provide that these expenses may be admitted subject to prudence check. Any liability on account to meet award of arbitration or statutory compliance of direction of any statutory authority or court of law only after applying the prudence check.

Additional capitalization of Rs. 1460.25 crore cannot be allowed as the same was incurred due to the fault of Petitioner



(xxviii) As per the contract agreement dated 14.11.2022, the contract was awarded to the Contractor by the Petitioner at the cost of Rs. 334,51,66,092/- and the time duration for completion of the work was within 45 months. However, there was a delay in the timely completion of the project, and therefore, the contractor invoked the arbitration proceedings. Thereafter, the award was passed on 17.12.2010, whereby the Arbitrator awarded the majority of the claim in favour of the contractor and held the Petitioner responsible for the timely completion of the project

(xxix) It is clear that the cost of the project was substantially increased due to the fault of the Petitioner itself as the Petitioner delayed in granting land and other resources to the contractor. Further, the award passed by the Arbitrator was also upheld by the Hon'ble High Court vide order dated 12.7.2023 passed by the Single Judge of the Hon'ble Delhi High Court passed the Judgement in O.M.P (Comm.) 303/2020 filed by the Petitioner under Section 34 of the Arbitration and Conciliation Act, 1996. The judgment passed by the Hon'ble High Court and as per the award passed by the Arbitrator, the delay in completion of the project was entirely attributable to the Petitioner herein, and therefore, the additional capitalization claimed by the Petitioner is liable to be rejected.

(xxx) At the time when the arbitral award was passed by the Arbitrator, i.e., 17.12.2010, the amount payable by the Petitioner was Rs. 450 crores. However, since the Petitioner has not timely deposited the amount, an exorbitant amount on account of interest became due, and the total liability increased to Rs.1460.25 crore. Hence, any amount which is incurred due to the mismanagement and unwise decisions of the Petitioner, the consumers should not be burdened with the same.

Rejoinder of the Petitioner, THDCIL

8. Petitioner, THDCIL, in its rejoinder to the aforesaid replies of the Respondents, has mainly submitted the following:

(i) Petitioner has invoked this Commission's power to relax and power to remove difficulties in the present case. In this regard, reference is drawn to the judgment in Hindustan Paper Corporation Limited v. Government of Kerala (1986) 3 SCC 398. The intent of the clause of power to remove difficulties is to prevent any hardship and injustice to a party or would result in unjust results.

(ii) Petitioner has filed the present petition subsequent to the decisions dated 13.12.2019, 12.7.2023, and 28.7.2023 of the Hon'ble Delhi High Court, with regard to the Arbitral award related to THDCIL v/s PCL ILC JV matter dated 17.12.2010 which adversely affected the cash flow of the Petitioner.

(iii) It is wrong and denied that the Petition filed by the Petitioner is barred by time. The Commission has determined the tariff of the generating station for the period 2014-

19, vide its order dated 9.10.2018 in Petition No.117/GT/2018, in accordance with the 2014 Tariff Regulations and subsequent amendments thereof. The Commission later trued up the tariff of the generating station for the period 2014-19, vide its order dated 14.9.2022 in Petition No. 245/GT/2020 in accordance with the 2014 Tariff Regulations. Thereafter, the Commission has determined the tariff of the generating station for the period 2019-24 on the basis of the projected additional capital expenditure vide its order dated 3.10.2022 in Petition No. 244/GT/2020 in accordance with the 2019 Tariff Regulations.

(iv) Petitioner has time and again disclosed the contingent liability of the generating station. It had disclosed the contingent liability & Interest thereon as Rs. 131545.55 lakh as on 31.3.2019 in Petition 245/GT/2020 and also in Petition No. 244/GT/2020. Now, the Petitioner has also made payments in terms of the orders dated 13.12.2019, 12.07.2023, and 28.07.2023. The above substantial amount deposited has adversely affected the cash flow of the Petitioner.

(v) Petitioner had not filed any Petition for interim true-up of tariff in 2021-22 under Regulation 13(3) of the 2019 Tariff Regulations, as the annual fixed cost was not increased by more than 20% over the annual fixed cost determined by the Commission for the respective years of the tariff period till 31.3.2021. As the event arose in 2023-24, Petitioner filed this Petition on 29.12.2023. This cannot be construed to say that the interim truing-up petition filed is barred by limitation. Only when the annual fixed cost increased by more than 20% over the annual fixed cost, as determined by the Commission for the project, the Petitioner has rightly approached the Commission with this petition.

(vi) The total awarded amount is Rs. 1460.25 crore, which includes the principal amount of Rs.475.70 crores and the interest amount of Rs.984.55 crores. The Petitioner has deposited the full amount of Rs. 450 crores as per order dated 13.12.2019 and Rs.1010.25 crores as per order dated 28.7.2023 before the Registrar, Delhi High Court. The details and the supporting documents with regard to the above have been duly submitted along with the petition.

(vii) Reliance placed by the Respondent TPDDL on the judgment dated 25.3.2011 of APTEL in Appeal No.130/2009 is wrong and misplaced. The intent of the clause of 'power to remove difficulties' is to prevent any hardship and injustice to a party or would result in unjust results. The Commission may undertake the prudent check, and any further details that may be required will be duly submitted by Petitioner. The Petitioner, on 27.1.2020, duly complied with the direction of the Hon'ble Delhi High Court directing the Petitioner to make part deposit of Rs.450 crores and thereafter, complied with the order of the Hon'ble High Court dated 28.7.2023 by depositing Rs. 1010.25 crores in favour of the Registrar General, Delhi High Court on 31.8.2023. It is wrong and denied



that there are cost overruns due to the Petitioner's own managerial and operational inefficiencies

(viii) Petitioner has duly availed the legal course of remedy available to it by filing appropriate proceedings before the Hon'ble Delhi High Court from time to time and has also made payments in terms of the orders dated 13.12.2019 and 28.7.2023, as mentioned above. The Division Bench of the Hon'ble Delhi High Court, vide its judgment dated 24.4.2024, has dismissed the appeal filed by the Petitioner, and the Petitioner is in the process of filing an appeal before the Hon'ble Supreme Court against this order. But as on date, the Petitioner has incurred the liabilities (payment made by THDCIL on 27.1.2020 and 31.8.2023) on account of the Arbitral award dated 17.12.2010 read with the orders of Hon'ble Delhi High Court dated 13.12.2019, 12.7.2023, 28.7.2023.

Hearing dated 11.7.2024

9. During the hearing of the Petition on 11.7.2024, the learned counsel for the Petitioner made detailed oral submissions, as raised in its petition/rejoinders above. He, however, submitted that since substantial amounts deposited as above have adversely affected the cash flows of the Petitioner, the Commission, considering the exceptional circumstances of the case, may, in the interim, direct the payment of the Principal amount of Rs 475.70 crore by the Respondents. The learned counsel for the Respondent TPDDL also made detailed oral submissions, as mentioned in its reply above. The learned counsel for the Respondents, BRPL & BYPL, submitted that the reply filed in the matter may be considered. On a specific query by the Commission as to the status of the appeal filed by the Petitioner before the Hon'ble Supreme Court, the learned Senior counsel for the Petitioner submitted that the matter may be listed during August 2024. On another query by the Commission as to why the relief sought by the Petitioner cannot be considered in the truing-up tariff petition to be filed in terms of Regulation 13(2) of the 2019 Tariff Regulations, more so, keeping in view that the tariff period 2019-24 has come to an end, the learned Senior counsel submitted that since the final order in the truing-up petition [to be filed by November 2024 in terms of Regulation 13(2) of 2019 Tariff Regulations] would



take some more time and due to the cash flow problems faced by the Petitioner, the Commission, may consider the grant of interim relief and allow only the Principal component from the payments. The Commission, after hearing the parties, granted time to file their written submissions and listed the matter for further hearing.

Hearing dated 13.8.2024

10. During the hearing, the learned Senior counsel for the Petitioner, THDCIL, submitted that the Hon'ble Supreme Court in the SLP filed by the Petitioner challenging the Hon'ble Delhi High Court's order dated 24.4.2024 in FAO(OS)(Comm) No. 184/2023, has admitted the appeal on 26.7.2024 and has also stayed the execution proceedings against it, till further orders. He further submitted that since the total amount deposited by the Petitioner, in terms of the order of the Hon'ble High Court, is Rs 1460.25 crore (Principal amount of Rs 475.70 crore plus interest of Rs 984.55 crore) has adversely affected the cash flows of the generating station; the Commission may grant the relief as prayed for in the petition. He also submitted that the Petitioner has filed its note of arguments in the matter. The learned counsel for the Respondent TPDDL submitted that in addition to the oral submissions made on 11.7.2024, the written submission filed by it may be considered while passing the order in the petition. The Respondent BRPL sought time to file its written submissions in the matter. Accordingly, the Commission reserved its order in the matter.

Written submissions

11. The Petitioner has filed its note of submissions on 12.8.2024, and the Respondents TPDDL and BRPL have filed their written submissions on 1.8.2024 and 5.9.2024, respectively, mainly reiterating the submissions made in the petition /reply and rejoinder and hence the same is not elaborated herein, for the sake of brevity. The Respondent TPDDL has, however, added that the Petitioner cannot pass on the financial burden of an



arbitral award along with interest to the beneficiaries, including TPDDL, as the liabilities are not crystallized and the enforcement and execution of the arbitral award are still pending before the Hon'ble Delhi High Court and the Petitioner is actively contesting the said award before the Hon'ble Supreme Court. Respondent BRPL has pointed out that the Hon'ble Supreme Court vide its order dated 27.7.2024 has stayed the execution proceedings for recovery of the amount, and therefore, the present petition for interim truing up has become infructuous. The Petitioner, in the note of submissions, has added that while the beneficiaries, on the one hand, have submitted that the Petitioner ought to wait for the final decision in the SLP filed by it for crystallization of the liabilities and therefore, the truing up is premature, they have on the other hand stated that the interest amount paid is on account of the procedural delays on the part of the Petitioner.

12. Based on the above, we proceed to examine the submissions of the parties as stated in the subsequent paragraphs.

Analysis and Decision

13. As stated, the present Petition has been filed by the Petitioner seeking interim truing-up of the tariff of the generating station for the period 2019-24 on account of the liability of Rs 1460.25 crore incurred on it owing to the Arbitral award dated 17.12.2010 read with the orders dated 13.12.2019, 12.7. 2023 and 28.7.2023 of the Hon'ble Delhi High Court. The Petitioner has also submitted that it had not filed an interim truing-up Petition in 2021-22 under Regulation 13(3) of the 2019 Tariff Regulations, as the annual fixed cost had not increased by more than 20% as determined by this Commission for the respective years of the tariff period. It has, however, submitted that only when the annual fixed cost of the generating station increased by more than 20% over the annual fixed cost as determined by the Commission in 2023-24, the present Petition has been filed invoking the

Commission's power to relax and power to remove difficulties under Regulation 76 and Regulation 77 of the 2019 Tariff Regulations, for the interim truing up process. Referring to the judgment of the Hon'ble Supreme Court in HPCL v Govt. of Kerala (1986) 3 SCC 398, the Petitioner has argued that since substantial amounts deposited by it in terms of the Arbitral award, read with the orders of the Hon'ble Delhi High Court, has adversely affected its cash flows, same may be allowed as additional capitalization in terms of the provisions of Regulations 25 and 26 of the 2019 Tariff Regulations, subject to the prudence check.

14. *Per contra*, the Respondents TPDDL and BRPL have argued that the present Petition is not maintainable as per Regulation 13(3) of the 2019 Tariff Regulations, which provides for interim truing up of tariff in 2021-22 and is also time-barred. Referring to the judgment of the Hon'ble Supreme Court in M.U. Sinai v Union of India (1975) 2 SCR 640, the Respondents have contended that the 'power to relax' and the 'power to remove difficulties' must be exercised in a conditioned and restricted manner, and such exercise of power should not change the basic structure, scheme and essential provisions of the statute. Respondent TPDDL has referred to the APTEL judgment dated 25.3.2011 of in RGPPL v CERC & ors and contended that the Petitioner has failed to establish its reasons for such inordinate delay in filing the present Petition for interim truing up and, therefore, is liable to be rejected.

15. We have examined the above submissions. Before proceeding, we extract below some of the provisions of the 2019 Tariff Regulations:

Regulation 13 of the 2019 Tariff Regulations

13. Truing up of tariff for the period 2019-24:

(1) The Commission shall carry out truing up exercise for the period 2019-24 along with the tariff petition filed for the next tariff period, for the following:

a) the capital expenditure including additional capital expenditure incurred up to 31.3.2024, as admitted by the Commission after prudence check at the time of truing up:

b) the capital expenditure including additional capital expenditure incurred up to 31.3.2024, on account of Force Majeure and Change in Law.

(2) The generating company or the transmission licensee, as the case may be, shall make an application, as per Annexure-I to these regulations, for carrying out truing up exercise in respect of the generating station or a unit thereof or the transmission system or an element thereof by 30.11.2024.

(3) The generating company or the transmission licensee, as the case may be, may make an application for interim truing up of tariff in the year 2021-22, if the annual fixed cost increases by more than 20% over the annual fixed cost as determined by the Commission for the respective years of the tariff period:

XXXX

XXXXX.

(4) After truing up, if the tariff already recovered exceeds or falls short of the tariff approved by the Commission under these regulations, the generating company or the transmission licensee, shall refund to or recover from, the beneficiaries or the long term customers, as the case may be, the excess or the shortfall amount along with simple interest at the rate equal to the bank rate as on 1st April of the respective years of the tariff period in six equal monthly instalments

Regulation 25 (1) of the 2019 Tariff Regulations

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

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

(a) **Liabilities to meet award of arbitration or for compliance of the directions or order of any statutory authority, or order or decree of any court of law;**

(b) Change in law or compliance of any existing law;

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

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

(e) Force Majeure events;

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

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

XXXX

Regulation 76 of the 2019 Tariff Regulations

76. Power to Relax: The Commission, for reasons to be recorded in writing, may relax any of the provisions of these regulations on its own motion or on an application made before it by an interested person.



Regulation 77 of the 2019 Tariff Regulations

77. Power to Remove Difficulty: If any difficulty arises in giving effect to the provisions of these regulations, the Commission may, by order, make such provision not inconsistent with the provisions of the Act or provisions of other regulations specified by the Commission, as may appear to be necessary for removing the difficulty in giving effect to the objectives of these regulations."

16. While in terms of Regulation 13(1) of the 2019 Tariff Regulations, the Commission shall carry out the truing-up exercise for the period 2019-24 along with the tariff petition for the next tariff period, the petition for which is to be filed by 30.11.2024 (in terms of Regulation 13(2), Regulation 13(3) provides that the generating company, may make an application for interim truing up of tariff in the year 2021-22 if the annual fixed cost increases by more than 20% over the annual fixed cost as determined by the Commission for the respective years of the tariff period. Admittedly, in the present case, the Commission had determined the tariff of the generating station for the period 2019-24 vide its order dated 3.10.2022 in Petition No.244/GT/2020, in terms of the provisions of the 2019 Tariff Regulations. Since the period for filing the interim truing-up in terms of the said regulations had already elapsed at the time of issuing the order dated 3.10.2022 in Petition No. 244/GT/2020 as referred above, the question of the Petitioner failing to file the interim truing up petition in 2021-22 does not arise. It is noticed that the Petitioner had disclosed the contingent liability and interest thereon as Rs.131545.55 lakh as on 31.3.2019 in its petitions (Petition No. 244/GT/2020 and Petition No. 245/GT/2020), which were disposed of by this Commission vide orders dated 3.10.2022 and 14.9.2022 respectively. It is only after the payment of the arbitral award amount of Rs 1460.25 crore, in terms of the directions of the Hon'ble Delhi High Court dated 13.12.2019 and 28.7.2023 in the enforcement case filed by the contractor, that the Petitioner approached this Commission

by way of this petition, seeking interim truing up of tariff of the generating station in 2023-24 (instead of 2021-22) in the exercise of the power to relax/power to remove difficulties.

17. Respondents TPDDL and BRPL have, however, objected to the exercise of the said power to relax/power to remove the difficulty on the ground that the same has the effect of amending the 2019 Tariff Regulations and on the strength of the judgment of the Hon'ble Supreme Court in M.U.Sinai v UOI & ors and the judgment of APTEL in RGPPL v CERC & ors. It is settled law, in terms of the judgment of the Hon'ble Supreme Court in Sinai's case, that the power to remove difficulty cannot be exercised to amend the provisions of the regulations substantially. However, we do not propose to exercise the said power in the present case. With regard to the exercise of the power to relax, APTEL, in its judgment in the RGPPL case, has observed that the said power can be exercised in an exceptional case and where non-exercise of the same would cause hardship and injustice to a party or would lead to unjust results. The relevant portion is extracted below:

"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."

18. The power to relax under Regulation 76 of the 2019 Tariff Regulations (as quoted under para 15 above) is similar to Regulation 13 of the 2004 Tariff Regulations notified by this Commission for the period 2009-2014. The scope of Regulation 13 of the 2004 Tariff Regulations was considered by APTEL in its judgment dated 22.1.2007 in Appeal No. 89/2006 (NTPC Ltd. Vs MPSEB & ors), wherein it held that power had been conferred in the Commission to relax the rigours of the 2004 Tariff Regulations in appropriate cases. The APTEL further held as under:



"In Bhinka vs. Charan Singh, AIR 1959 SC 960, it was held that headings or titles pre-fixed to a section can be referred to for construing the same. In Ralph Godrej Carriton, AIR 1955 559, it was held that a heading is to be regarded as key to the interpretation of the clause under examination. In Qualter Hall & Co. Ltd. vs. Board of Trade, 1961(3) AU E.R. 389, it was held that heading can be treated as preamble to the provision following it. These principles can also be utilized for construing the Regulations, which are quasi legislative in nature. Therefore, Regulation 13 can be construed in the light of its Heading. Reading the Regulation in the light of its Heading, it must be held that the power comprised in Regulation 13 is essentially the 'power to relax'. In case any Regulation causes hardship to a party or works injustice to him or application thereof leads to unjust result, the Regulation can be relaxed. The exercise of power under Regulation 13 of the Regulations is minimized by the requirement to record the reasons in writing by the Commission before any provision of the Regulations is relaxed. Therefore, there is no doubt that the Commission has the power to relax any provision of the Regulations. "

19. Based on the ratio of the above judgments of APTEL, the Commission, by virtue of its power under Regulation 76 of the 2019 Tariff Regulations, is authorized to relax any of the provisions of the said regulations in individual cases, with reasons to be recorded in writing. The Petition is, therefore, maintainable.

20. Respondents have also submitted that since the tariff period is nearing its end, the Petitioner must file a fresh tariff Petition for truing up exercise by 30.11.2024, as per Regulation 13(2) of the 2019 Tariff Regulations, to prevent unnecessary duplication of proceedings and ensure regulatory efficiency. The Petitioner has stated that the substantial amount deposited has adversely affected its cash flows of the petitioner. In our view, the final truing up of the tariff Petition for the period 2019-24, along with the Petition for approval of tariff for the period 2024-29, even if filed by 30.11.2024, involves the process of preliminary scrutiny, removal of deficiencies (if any), the completion of pleadings by the parties and the disposal thereof, after the final hearing, and the same would take a considerable time. Any delay in considering the substantial amounts paid by the Petitioner would not only cause hardship and cash flow problems to the Petitioner but would also burden the beneficiaries/consumers by way of carrying costs. In light of the discussions above, we consider it a fit case to exercise the power under Regulation 76 of



the 2019 Tariff Regulations as prayed for by the Petitioner. Accordingly, in relaxation of Regulation 13(3) of the 2019 Tariff Regulations, we consider the Petition for interim truing-up of the tariff of the generating station in 2023-24 (instead of 2021-22) to meet the liabilities in compliance with the Arbitral award dated 17.12.2010 read with the orders of the Hon'ble Delhi High Court.

21. Having held that the Petition is maintainable and that the Petition for interim truing-up of tariff to meet the liabilities in respect of the arbitral award is to be considered in 2023-24, as above, we examine the claim of the Petitioner for additional capitalization in terms of the provisions of the regulations. Regulation 25(1)(a) of the 2019 Tariff Regulations (as quoted in para 15 above) provides that the additional capitalization, in respect of an existing project, within the original scope and after the cut-off date, incurred to meet liabilities towards the award of arbitration or for compliance with the directions or order of any statutory authority, or order or decree of any court of law may be admitted, subject to prudence check.

22. In the present case, a total amount of Rs 1460.25 crore, which includes the Principal amount of Rs. 475.70 crore and the interest amount of Rs 984.55 crore, deposited by the Petitioner as per the Arbitral award dated 13.12.2019 read with the orders of the Hon'ble Delhi High Court has been claimed by the Petitioner. It is noticed from records that against the order dated 12.7.2023 of the learned Single Bench of the Hon'ble Delhi High Court dismissing the appeal filed by the Petitioner challenging the Arbitral award dated 17.12.2010, the Petitioner had filed an appeal before the Division Bench of the Hon'ble Delhi High Court and the same was also rejected vide judgment dated 24.4.2024. Against this judgment, the Petitioner has filed SLP before the Hon'ble Supreme Court, wherein the Hon'ble Court on 27.7.2024, stayed the execution proceedings (filed by the contractor) for

recovery of the amount and the matter is pending. The Respondents TPDDL and BRPL on the one hand, referred to the pending appeal and submitted that the Petitioner should only claim the expenditures after a final decision of the Hon'ble Supreme Court, they had, on the other, submitted that the burden of the interest amount paid by the Petitioner, is on account of procedural delays on the part of the Petitioner and cannot therefore be imposed on the Respondent beneficiaries. In our considered view, Regulation 25(1)(a) of the 2019 Tariff Regulations provides for the admission of the additional expenditure incurred to meet the liabilities of award of arbitration or for compliance with the directions or order of any statutory authority or order or decree of any court of law. Since the arbitral award is pending consideration of the Hon'ble Supreme Court in the appeal filed by the Petitioner, we find no reason to entertain the submission of the Respondents that the additional cost (levy of interest) incurred is on account of the Petitioner's own fault. Nevertheless, keeping in view that the matter is being decided now, it is observed that the Petitioner has not claimed additional capitalization for the period 2019-23 and claimed additional capitalization of Rs. 1460.25 crore in the year 2023-24. Considering the submissions and deliberations as mentioned above, we are inclined to allow the additional capitalization of only the Principal amount of Rs 475.70 crore in 2023-24 on account of meeting the liabilities of the arbitral award dated 17.12.2010 read with the orders dated 13.12.2019, 12.7.2023 and 28.7.2023 of the Hon'ble Delhi High Court, under Regulation 25(1)(a) of the 2019 Tariff Regulations. We direct accordingly. The balance amount of Rs 984.55 crore shall, however, be considered at the time of truing-up of the tariff of the generating station in the petition to be filed by the Petitioner in terms of Regulation 13(1) of the 2019 Tariff Regulations read with the relevant provisions of the Tariff Regulations.



23. Consequent upon the consideration of the principal amount of Rs. 47570.13 lakh as additional capitalization in 2023-24, the tariff in respect of the generating station for the period 2019-24 is trued-up in terms of the provision of the 2019 Tariff Regulations. The claim of additional capitalization during the year 2023-24 of Rs. 47570.13 lakh is considered based on the parameters allowed in Petition No. 244/GT/2020, which would be trued up at the time of truing up the tariff for the period 2019-24.

Revision of tariff for the period 2019-24

24. The Commission vide its order dated 3.10.2022 in Petition No. 244/GT/2020, had approved the capital cost and annual fixed charges of the generating station for the period 2019-24 as under:

Capital Cost allowed

	(Rs. In Lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Capital Cost	286012.08	287555.75	287915.47	288166.54	288171.17
Net Additional capital expenditure allowed during the year/ period	1543.67	359.72	251.07	4.63	1.25
Closing Capital Cost	287555.75	287915.47	288166.54	288171.17	288172.42

Annual Fixed Charges allowed

	(Rs. in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	13527.67	13602.34	13625.22	13636.41	13636.81
Interest on loan	11235.24	10050.09	8815.73	7592.94	6318.33
Return on Equity	13203.80	13248.51	13265.47	13273.30	13273.47
O&M Expenses	17268.39	18091.63	18954.12	19857.71	20804.39
Interest on Working Capital	1323.48	1255.05	1187.34	1205.83	1223.05
Total	56558.59	56247.63	55847.87	55566.19	55256.07

25. The capital cost and the annual fixed charges claimed by the Petitioner for the period 2019-24 are as follows:

Capital Cost claimed

	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Capital Cost	286012.08	287555.76	287915.48	288166.55	288171.18



Net Additional capital expenditure during the year/ period	1543.68	359.72	251.07	4.63	146026.25
Closing Capital Cost	287555.76	287915.48	288166.55	288171.18	434197.43

Annual Fixed Charges claimed

	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	13527.67	13602.34	13625.22	13636.41	16890.69
Interest on Loan	11235.24	10050.09	8815.73	7592.94	9481.74
Return on Equity	13203.80	13248.52	13265.47	13273.30	17648.59
Interest on Working Capital	1323.48	1255.05	1187.34	1205.83	1562.01
O & M Expenses	17268.39	18091.63	18954.12	19857.71	20804.40
Total	56558.58	56247.63	55847.87	55566.19	66387.42

26. After considering the Principal amount of Rs.47570.13 lakh, as per the Arbitral award, the additional capitalization for the year 2023-24 has been revised from Rs. 3 lakh to Rs.47573.13 lakh. Therefore, the annual fixed charges for the period 2019-24 stands revised, as shown in the subsequent paras:

Additional capital expenditure

27. The additional capital expenditure allowed for the period 2019-24 is as under:

	<i>(Rs in lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Additional capital expenditure allowed within the original scope of work of project (Regulation 25 (A))	473.20	12.00	3.00	12.00	47573.13
Additional capital expenditure allowed under Regulation 26(1)(b) (B)	205.00	250.00	250.00	0.00	0.00
Additional capital expenditure allowed other than the original scope of work of project (C)	911.87	241.21	0.00	0.00	0.00
Total additional capital expenditure allowed (D)=(A)+(B)+(C)	1590.07	503.21	253.00	12.00	47573.13

28. The net additional capital expenditure allowed for the period 2019-24 is as under:

	<i>(Rs in lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Additional capital expenditure allowed (a)	1590.07	503.21	253.00	12.00	47573.13
Less: De-capitalization considered (b)	408.96	143.49	1.93	7.37	1.75
Add: Undischarged liabilities discharged (c)	362.56	0.00	0.00	0.00	0.00

Net additional capital expenditure (c)=(a)-(b)+(c)	1543.67	359.72	251.07	4.63	47571.38
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Capital Cost approved for the period 2019-24

29. Accordingly, the capital cost allowed for the period 2019-24 is as under:

	(Rs in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Opening capital cost (A)	286012.08	287555.75	287915.47	288166.54	288171.17
Net Additional capital expenditure allowed during the year (B)	1543.67	359.72	251.07	4.63	47571.38
Closing capital cost (C=A+B)	287555.75	287915.47	288166.54	288171.17	335742.55

Debt-Equity Ratio

30. The debt-equity ratio of 76.97:23.03, as allowed, vide order dated 14.09.2022 in petition no. 245/GT/2020, i.e., truing up order for the tariff period 2014-19, has been considered as on 31.3.2019, and accordingly, the debt-equity ratio arrived as on 31.3.2024, after net admitted additional capital expenditure in the ratio of 70:30, is 75.94:24.06 for the purpose of tariff.

	As on 31.3.2019		Net Additional Capitalization		As on 31.3.2024	
	Amount (Rs. in lakh)	(in %)	Amount (Rs. In lakh)	(in %)	Amount (Rs. in lakh)	(in %)
Debt	220146.53	76.97%	34811.32	70.00%	254957.85	75.94%
Equity	65865.56	23.03%	14919.14	30.00%	80784.70	24.06%
Total	286012.08	100.00%	49730.46	100.00%	335742.55	100.00%

Return on Equity

31. Accordingly, Return on Equity has been worked out and allowed as under:

Return on Equity at Normal Rate

	(Rs in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Normative Equity-Opening (A)	65865.56	66076.90	66153.06	66228.38	66229.77
Addition of Equity due to additional capital expenditure (B)	211.34	76.16	75.32	1.39	14271.41

Normative Equity-Closing (C) = (A) + (B)	66076.90	66153.06	66228.38	66229.77	80501.18
Average Normative Equity (D) = (A+C)/2	65971.23	66114.98	66190.72	66229.07	73365.48
Return on Equity (Base Rate) (E)	16.500%	16.500%	16.500%	16.500%	16.500%
Effective Tax Rate (F)	17.472%	17.472%	17.472%	17.472%	17.472%
Rate of Return on Equity (Pre-Tax) (G) = (E)/(1-F)	19.993%	19.993%	19.993%	19.993%	19.993%
Return on Equity (Pre-Tax) annualized (H) = (D)x(G)	13189.63	13218.37	13233.51	13241.18	14667.96

Return on Equity at WAROI Rate

	2019-20	2020-21	2021-22	2022-23	2023-24
Normative Equity - Opening (A)	0.00	251.76	283.51	283.51	283.51
Addition of Equity due to additional capital expenditure (B)	251.76	31.75	0.00	0.00	0.00
Normative Equity-Closing (C) = (A) + (B)	251.76	283.51	283.51	283.51	283.51
Average Normative Equity (D) = (A+C)/2	125.88	267.64	283.51	283.51	283.51
Weighted average rate of interest on actual loan portfolio (E)	9.292%	9.296%	9.305%	9.350%	9.350%
Effective Tax Rate (F)	17.472%	17.472%	17.472%	17.472%	17.472%
Rate of Return on Equity (Pre-Tax) (G) = (E)/(1-F)	11.260%	11.264%	11.274%	11.329%	11.329%
Return on Equity (Pre-Tax) - Annualized (H) = (D) x (G)	14.17	30.15	31.96	32.12	32.12

Interest on Loan

32. Accordingly, Interest on the loan has been worked out as under:

	(Rs in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Gross opening loan (A)	220146.53	221227.09	221478.90	221654.64	221657.89
Cumulative repayment of loan upto the previous year (B)	93089.15	106465.19	120007.70	133632.01	147264.66
Net Loan Opening (C) = (A) - (B)	127057.38	114761.90	101471.20	88022.63	74393.23
Addition due to additional capital expenditure (D)	1080.57	251.80	175.75	3.24	33299.96
Repayment of Loan during the period (E)	13527.67	13602.34	13625.22	13636.41	14762.37
Less: Repayment adjustment on a/c of de-capitalization (F)	151.63	59.84	0.90	3.76	0.85
Net Repayment of Loan during the period (G) = (E) - (F)	13376.04	13542.50	13624.32	13632.64	14761.52

Net Loan Closing (H) =(C) +(D) -(G)	114761.90	101471.20	88022.63	74393.23	92931.68
Average Loan (I) = (C+H)/2	120909.64	108116.55	94746.92	81207.93	83662.45
Weighted Average Rate of Interest of loan (J)	9.2923%	9.2956%	9.3045%	9.3500%	9.3500%
Interest on Loan (K) = (I)*(J)	11235.24	10050.09	8815.73	7592.94	7822.44

Depreciation

33. Accordingly, depreciation has been worked out and allowed as under:

	(Rs in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Opening Gross Block (A)	286012.08	287555.75	287915.47	288166.54	288171.17
Net Additional Capital Expenditure during 2019-24 (B)	1543.67	359.72	251.07	4.63	47571.38
Closing Gross Block(C=A+B)	287555.75	287915.47	288166.54	288171.17	335742.55
Average Gross Block (D)=(A+C)/2	286783.92	287735.61	288041.00	288168.85	311956.86
Land Value (LV)	461.78	461.78	461.78	461.78	461.78
Depreciable Value (E=(D-LV) *90%)	257689.92	258546.45	258821.30	258936.37	280345.57
Remaining Depreciable value at the beginning of the year (F=E-Cum Dep at 'L' at the end of the previous year)	164600.77	152081.26	138813.61	125304.35	133080.91
Rate of Depreciation (G)	4.72%	4.73%	4.73%	4.73%	4.73%
Balance Useful Life (H)	33.00	32.00	31.00	30.00	29.00
Depreciation (I=D*G)	13527.67	13602.34	13625.22	13636.41	14762.37
Cumulative Depreciation at the end of the year (J=I+ Cumulative depreciation at 'L' at the end of the previous year)	106616.82	120067.53	133632.91	147268.42	162027.02
Adjustment on account of decapitalization (K)	151.63	59.84	0.90	3.76	0.85
Cumulative depreciation at the end of the year (L) = (J) - (K)	106465.19	120007.70	133632.01	147264.66	162026.17

*Cumulative Depreciation as on 31.3.2019 is Rs. 93089.15 lakh.

O&M Expenses

34. Accordingly, the O&M expenses allowed are as under:

	(Rs in lakh)				
	2019-20	2020-21	2021-22	2022-23	2023-24
Normative O&M expenses Regulation 35(2)(a) of the 2019 Tariff Regulations (A)	13452.46	14093.68	14765.46	15469.26	16206.61
Impact of pay revision of THDC staff (B)	2865.46	3002.14	3145.34	3295.38	3452.57

Total O&M Expenses allowed (A+B)	16317.92	17095.82	17910.80	18764.64	19659.18
Security Expenses allowed separately (C)	950.47	995.81	1043.31	1093.08	1145.22
Total O&M Expenses as allowed (including Water Charges and Capital Spares Consumed) (D) = (A+B+C)	17268.39	18091.63	18954.12	19857.71	20804.39

Interest on Working Capital

35. Accordingly, the interest on working capital has been worked out and allowed as under:

	<i>(Rs in lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Working Capital for O&M expenses (one month)	1439.03	1507.64	1579.51	1654.81	1733.70
Working Capital for Maintenance Spares	2590.26	2713.74	2843.12	2978.66	3120.66
Working capital for Receivables	6953.92	6934.64	6885.35	6850.63	7299.02
Total Working Capital	10983.22	11156.02	11307.98	11484.09	12153.38
Rate of Interest (%)	12.05%	11.25%	10.50%	10.50%	10.50%
Total Interest on Working capital	1323.48	1255.05	1187.34	1205.83	1276.10

Annual Fixed Charges approved for the period 2019-24

36. Based on the above, the annual fixed charges approved for the generating station (after truing up) for the period 2019-24 are as under:

	<i>(Rs in lakh)</i>				
	2019-20	2020-21	2021-22	2022-23	2023-24
Depreciation	13527.67	13602.34	13625.22	13636.41	14762.37
Interest on loan	11235.24	10050.09	8815.73	7592.94	7822.44
Return on Equity	13203.80	13248.51	13265.47	13273.30	14700.08
O&M Expenses	17268.39	18091.63	18954.12	19857.71	20804.39
Interest on Working Capital	1323.48	1255.05	1187.34	1205.83	1276.10
Total	56558.59	56247.63	55847.87	55566.19	59365.38

Note: (1) All figures are on annualized basis. (2) All figures under each head have been rounded. The figure in total column in each year is also rounded. As such the sum of individual items may not be equal to the arithmetic total of the column.

37. The annual fixed charges approved as above are subject to truing up in terms of in terms of Regulation 13(1) of the 2019 Tariff Regulations. Accordingly, the Petitioner shall, at the time of final truing up of tariff, furnish all the relevant details along with the detailed item-wise calculations of the Principal amount bifurcated into the original amount (as per award dated 17.12.2010, as referred in Annexure E of submissions vide affidavit dated

02.07.2024) and the escalation amount (including calculations). Additionally, the interest amount shall also be bifurcated as pre-award and post-award periods, with the year-wise interest calculations. The annual fixed charges approved as above are subject to adjustment in terms of Regulation 13(4) of the 2019 Tariff Regulations and are also subject to the final decision of the Hon'ble Supreme Court in the pending appeal.

38. Petition No. 60/GT/2024 is disposed of in terms of the above.

Sd/-
(Harish Dudani)
Member

Sd/-
(Ramesh Babu V.)
Member

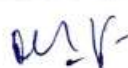
Sd/-
(Jishnu Barua)
Chairperson



FORM-I

Particulars	
1. Name of the Petitioner/Applicant	THDC India Limited
2. Address of the Petitioner/Applicant	THDC India Limited, Ganga Bhawan, Pragatipuram, ByPass Road, Rishikesh, Uttarakhand – 249 201
3. Subject Matter	Fee for the review petition for Review of Order dated 31.03.2026 of Central Electricity Regulatory Commission in Petition No. 485/GT/2024 filed by THDC India Limited for KHEP (400 MW)
4. Petition No., if any	---/RP/2026
5. Details of generation assets	
(a) generating station/units	(a)Koteshwar HEP/04 Units
(b) Capacity in MW	(b) 400MW (4X100 MW)
(c) Date of commercial operation	(c) 01.04.2012
(d) Period for which fee paid	(d) 2026-27
(e) Amount of fee paid	(e) ` 3,00,000/- (Rs. Three lakh only)
(f) Surcharge, if any	(f) NA
6. Details of transmission assets	N.A
7. Fee paid for Adoption of tariff for	N.A
8. Application fee for license	N.A
9. Fees paid for Miscellaneous Application	N.A
10. Fees paid for Interlocutory Application	N.A

anv

11. Fee paid for Regulatory Compliance petition	N.A
12. Fee paid for Review Application	N.A
13. License fee for inter-State Trading	N.A
14. License fee for inter-State Transmission.	N.A
15. Annual Registration Charge for Power Exchange	N.A
16. Details of fee remitted	
(a) Transaction ID/ Reference No./Payment Id.	(a) Transaction ID- 413de9c7c4718c4e6702 Payment ID- 056830605261257439
(b) Date of remittance	(b) 06.05.2026
(c) Amount remitted	(c) ` 300000/- (Rs. Three lakh only)
Signature of the authorized signatory with date	 नीरज कुमार NEERAJ KUMAR अपर महाप्रबंधक (वित्त) YAGM (Finance) मानविक/व्यवहारीक/व्यापारिक/वित्त/Commercial/Power Trading Cell टीएचसी लिमिटेड, राँची THOC INDIA LIMITED, RAJKESH

Fee Acknowledgement

Counterfoil (Office Copy)

Reference No.:	363/2026	Transaction Id.:	413de9c7c4718c4e6702
		Payment Gateway ID:	056830605261257439
		Status:	success
Received From :	THDC India Limited (THDCIL)		
The Sum of Rs. :	300000		
Fee Type:	Petition Filing Fees	Dated :	May 6, 2026, 12:54 PM
Payment Gateway:	Sab Paisa		
Fee Mode:	Net Banking		
Fee Period:			
Petitioner/ Organisation Name:	THDC India Limited (THDCIL)		

May 6, 2026, 1:12 PM

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Petition under Section 94(1)(f) read with Order 47 Rule 1 of the Code of Civil Procedure, 1908 and Regulation 52 of the CERC (Conduct of Business) Regulations, 2023 for Review of Order dated 31.03.2026 of Central Electricity Regulatory Commission in Petition No. 485/GT/2024 filed by THDC India Limited.

AND IN THE MATTER OF:

THDC India Limited

- Review Petitioner

VERSUS

Punjab State Power Corporation Limited and Others.

- Respondents

AFFIDAVIT

I, Neeraj Kumar, S/o Shri Ashok Kumar Gupta, aged about 50 years, working as Addl. General Manager (Finance)-Commercial/PTC in THDC India Limited, having its registered office at Ganga Bhawan, Pragatipuram, ByPass Road, Rishikesh - 249201, Uttarakhand, do hereby solemnly affirm and state as under:

1. That the Deponent is the Addl. General Manager of the Review Petitioner company and is well conversant with the facts and circumstances of the case and is therefore competent to swear this affidavit.

2. That the accompanying Review Petition under Section 94(1)(f) of the Electricity Act, 2003 has been filed under my instructions.

3. That the contents of the Petition are based on information available from the records of the Review Petitioner maintained in the ordinary course of business and I believe them to be true and correct and based on legal advice received.

4. That the Annexures to the Review Petition are true and correct copies of their originals.

5. That the deponent has not filed any other Review Petition or Appeal before any other Forum or Court of Law with respect to the Order dated 31.03.2026 passed in Petition No. 485/GT/2024.



Signature

DEPONENT

**नीरज कुमार
NEERAJ KUMAR**

अपर महाप्रबंधक (वित्त)/AGM (Finance)
वाणिज्यिक/व्यापार इंडिया कोल/Commercial Power Trading Cell
टीएचडीसी इंडिया लिमिटेड, रीशिकेश
THDC INDIA LIMITED, RISHIKESH

VERIFICATION

Verified at Rishikesh, on this 6th day of May'2026, that the contents of my above noted affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed therefrom.

DEPONENT

**नीरज कुमार
NEERAJ KUMAR**

अपर महासचिव (वित्त)/AGM (Finance)
वणिज्य/पार ट्रेडिंग सेल/Commercial/Pear Trading Cell
टीएचसीएल इंडिया लिमिटेड, रीशिकेश
THDC INDIA LIMITED, RISHIKESH



ATTESTED

6/5/2026
HARI PRAKASH GAIROLA
Advocate/Notary
Rishikesh, (Dehradun)
Reg. No.-26945/2024

**CERTIFICATE FOR SERVING OF PETITION TO RESPONDENTS AND
DISCLOSURE ON WEBSITE**

This is to certify that the copy of Review Petition for Review of Order dated 31.03.2026 of Hon'ble Central Electricity Regulatory Commission in Petition No. 485/GT/2024 filed by THDC India Limited for THDCIL Koteshwar Hydro Electric Project has been sent through e-mail to each of the beneficiaries of Koteshwar HEP (4X100 MW) and the Petition has been posted on website of THDC India Limited viz. < thdc.co.in>.



(Neeraj Kumar)

AGM(Finance)-Commercial/PTC

THDC India Limited-Rishikesh

नीरज कुमार

NEERAJ KUMAR

अपर महाप्रबंधक (वित्त)/AGM (Finance)
व्यावसायिक/वावर ट्रेडिंग सेल/Commercial/Power Trading Cell
टीएचडीसी इंडिया लिमिटेड, रीशिकेश
THDC INDIA LIMITED, RISHIKESH

BEFORE THE CENTRAL ELECTRICITY REGULATORY COMMISSION
6th, 7th & 8th FLOORS, TOWER B, WORLD TRADE CENTRE,
NAUROJI NAGAR, NEW DELHI – 110029

REVIEW PETITION NO. ___ OF 2026
IN PETITION NO: 485/GT/2024

IN THE MATTER OF:

THDC India Limited

.....Petitioner

Versus

Punjab State Power Corporation Limited & Ors.

...Respondents

VAKALATNAMA

I, Neeraj Kumar, working as Additional General Manager (Finance)-Commercial/PTC in the Review Petitioner's company in the above petition do hereby appoint Shri/Kum./Smt. Anushree Bardhan (D/3376/2013), Somya Sahni (D/8771/2024), Ritika Singh (G/5511/2023) and Rashmi Vaish (D/6641/2024) Advocate(s) with e-portal Id 'anushreebardhan' to appear, plead and act on behalf of THDC India Limited in the above petition/application and to conduct and prosecute all proceedings that may be taken in respect thereof and applications for return of documents, enter into compromise and to draw any moneys payable to THDC India Limited in the said proceeding.

Place: Rishikesh

Date: 06.05.2026

Signature of the Party

"Accepted"

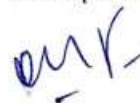
Executed in my presence.

*Signature with date *
(Name and Designation)


[RITIKA SINGH]


[SOMYA SAHNI]

*Signature with date *
(Name and Designation)



(Address for service on the Counsel)
Anushree Bardhan
Anushree Bardhan and Associates
A – 304, First Floor, Defence Colony,
New Delhi - 110024
Phone No. 011-40074652
Email: bardhananushree@gmail.com
Anushreebardhanandassociates@gmail.com


[ANUSHREE BARDHAN]


[RASHMI VAISH]