CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Petition No. 29/GT/2020

Coram:

Shri P.K. Pujari, Chairperson
Shri I.S Jha, Member
Shri Arun Goyal, Member

Date of Order: 4th June, 2021

IN THE MATTER OF

Petition for revision of generation tariff of Rampur Hydro Power Station (412 MW) for the period from actual COD of first Unit (i.e. 13.5.2014) to 31.3.2019-Truing-up of tariff determined by the Commission's order dated 26.6.2019 in Petition No. 315/GT/2018

AND

IN THE MATTER OF

SJVN Limited
SJVN Corporate Office Complex,
Shanan, Shimla – 171006,
Himachal Pradesh **…Petitioner**

Vs

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

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

3. Jaipur Vidyut Vitran Nigam Limited
Vidyut Bhawan, Janpath,
Jyoti Nagar, Jaipur – 302005, Rajasthan

4. Ajmer Vidyut Vitran Nigam Limited
Vidyut Bhawan, Janpath,
Jyoti Nagar, Jaipur – 302005, Rajasthan

5. Jodhpur Vidyut Vitran Nigam Limited
Vidyut Bhawan, Janpath,
Jyoti Nagar, Jaipur – 302005, Rajasthan

6. Himachal Pradesh State Electricity Board Limited
Vidyut Bhawan, Kumar House,
Shimla – 171004

7. Power Development Department
Government of J&K, Civil Secretariat Building,
Jammu-180001 (J&K)

8. Engineering Department,
1st Floor, UT Secretariat, Sector 9-D
Chandigarh-160009

9. Uttar Pradesh Power Corporation Limited
Shakti Bhawan, 14 Ashok Marg,
Lucknow, Uttar Pradesh – 226001

10. Uttaranchal Power Corporation Limited
Urja Bhawan, Kanwali Road,
Dehradun-248001

11. Government of Himachal Pradesh
H.P. Secretariat, Shimla-171002

12. M.P. Power Management Company Limited
Shakti Bhawan, Rampur,
Jabalpur-482008 …**Respondents**

Parties Present:

Shri Romesh Kapoor, SJVNL
Shri Rajeev Agarwal, SJVNL
Shri Sanjay Kumar, SJVNL
Shri Manish Garg, UPPCL
Shri Vikram Singh, UPPCL

ORDER

This petition has been filed by the Petitioner, SJVN Limited for revision of tariff of Rampur Hydro Power Station (412 MW) (hereinafter referred to as ‘the generating station’) for the period from the actual date of commercial operation of Unit-I (13.5.2014) to 31.3.2019, in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as 'the 2014 Tariff Regulations').

Background

2. The generating station is located on the river Satluj in the State of Himachal Pradesh and developed as a tail race extension of upstream project (Nathpa Jhakri) and is to be run in tandem with it. The project was sanctioned by Ministry of Power (MOP), Government of India on 25.1.2007 at an estimated cost of Rs. 2047.05 crore, including Interest During Construction (IDC) and Financing Charges (FC) of Rs. 260.41 crore and Rs. 1.46 crore respectively, at March, 2006 Price Level with a completion schedule of 60 months. The dates of commercial operation (COD) of the units of the generating station are as under:

Units	Actual COD
I	13.5.2014
II	13.5.2014
III	8.8.2014
IV	18.6.2014
V	13.5.2014
VI**/ Generating Station**	**16.12.2014**

3. The Petitioner has entered into Power Purchase Agreement (PPAs) with the Respondents for the capacity generated from the project in terms of allocation of power from the generating station that was notified on 12.5.2014 by the Ministry of Power (MOP), GOI.

4. Petition No.184/GT/2014 was filed by the Petitioner for approval of tariff of three units (i.e. Units I, II & V) from the date of their actual COD (13.5.2014) and the remaining three units projected to be declared under commercial operation during June, 2014. The Commission by its order dated 27.1.2015 granted interim annual fixed charges based on the actual COD of all units for the period from 13.5.2014 to 31.3.2016, subject to adjustment after determination of final tariff of the generating station for the 2014-19 tariff period. Thereafter, the interim tariff granted vide order dated 27.1.2015 was extended

vide Commission's order dated 30.3.2016, till 31.8.2016 or till the determination of final tariff for 2014-19, whichever was earlier. Subsequently, the Commission by order dated 15.2.2017 disposed of the said petition as under:

> "*13. In line with the above decision, we dispose of this petition, with liberty to the petitioner to approach the Commission with fresh petition for determination of tariff for the period 2014-19 in respect of the generating station after approval of RCE by the Central Government. We direct accordingly. We also direct that the interim tariff granted by order dated 27.1.2015 shall continue to be in force till the tariff of the generating station for 2014-19 is determined based on the DIA report and the approved RCE. The filling fees deposited by the petitioner shall be adjusted against the fresh petition to be filed for determination of tariff for the period 2014-19 in terms of the liberty granted above.*

5. While so, the Commission vide letter dated 3.7.2018 directed the Petitioner to file tariff petition in respect of the generating station for the period 2014-19 within a period of two months enclosing the following documents:

(a) Board approval of the actual capital cost of the Company;

(b) At least one of the following documents, namely, the DIA Report or cost approved by CEA/PIB: or cost approved by CCEA.

<u>Petition No.315/GT/2018 and Review Petition No.18/RP/2019</u>

6. In terms of the Commission's order dated 15.2.2017 in Petition No.184/GT/2014 and in compliance with the directions contained in letter dated 3.7.2018, the Petitioner filed Petition No.315/GT/2018 along with the Board approval of the actual capital cost of the Company (extracts of the 240th Meeting of the Board of Directors held on 30.7.2015), DIA (Designated Independent Agency) Report and the Minutes of Meeting of the PIB issued on 30.7.2015 recommending the Revised Cost Estimate (RCE) of Rs. 4233.21 crore for approval of tariff for the period from the actual COD of Unit-I (13.5.2014) till 31.3.2019 based on the actual expenditure, duly audited up to 31.3.2018, and the projected expenditure for the year 2018-19, in accordance with the provisions of the 2014 Tariff Regulations. Accordingly, the Commission vide its order dated 26.6.2019 in Petition No.315/GT/2018 had approved the capital cost of the generating station and determined the tariff of the generating station from COD of the units (13.5.2014) till

31.3.2019 as stated below:

Capital cost as on COD

(Rs. in lakh)

	13.5.2014 (COD of Units I,II&V)	18.6.2014 (COD of Units I, II,V&IV)	8.8.2014 (COD of Units I, II,V,IV&III)	16.12.2014 (Station COD)
(a) Capital Cost claimed including IDC, FC, FERV & Hedging Cost and un-discharged liabilities as per form 9E	159503.00	227011.73	297551.42	369917.16
(b) Less:				
Amount of capital liabilities in (a) above	26322.78	25547.27	25512.65	29254.58
Amount of IDC claimed	2039.62	2242.38	2420.03	2663.44
Amount of FC claimed	6582.31	6970.15	7271.71	7610.98
Amount of FERV claimed	38263.43	40004.82	45393.46	48584.16
Amount of Hedging Cost claimed	0.00	0.00	0.00	0.00
Excess Initial Spares claimed	0.00	0.00	0.00	4152.00
(c) Add:				
IDC allowed	966.56	1828.04	2353.80	2638.19
FC allowed	6582.31	6970.15	7271.71	7610.98
FERV allowed	38263.43	40004.82	45393.46	48584.1
Notional IDC	3031.91	3065.69	3115.25	3249.21
2. Capital cost (a-b+c)	**135139.07**	**204115.82**	**275087.78**	**339734.54**

Capital cost from COD of the generating station to 31.3.2019

(Rs. in lakh)

	16.12.2014 (Station COD) to 31.3.2015	2015-16	2016-17	2017-18	2018-19
Opening capital cost	339734.54	350811.40	367059.69	382951.53	377002.07
Add: Net additional capital expenditure allowed	11076.86	16248.29	15891.83	(-)5949.46	16869.31
Closing Capital Cost	**350811.40**	**367059.69**	**382951.53**	**377002.07**	**393871.38**

Annual fixed charges

(Rs. in lakh)

	13.5.2014 to 17.6.2014	18.6.2014 to 7.8.2014	8.8.2014 to 15.12.2014	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
Return on Equity	834.76	1786.17	6136.07	6279.78	22479.42	23485.85	23797.19	24139.13
Interest on Loan	262.00	522.88	2155.01	2220.32	8584.26	10680.12	9833.77	12353.67
Depreciation	657.56	1413.26	4870.18	4846.91	17852.61	18630.23	18858.62	19011.49
Interest on Working Capital	66.07	134.20	457.55	458.50	1681.45	1807.64	1839.92	1951.25
O&M Expenses	465.01	878.36	2798.69	2738.41	10055.53	10723.22	11435.24	12194.54
Total	**2285.40**	**4734.87**	**16417.50**	**16543.91**	**60653.27**	**65327.06**	**65764.73**	**69650.08**

7. The Petitioner being aggrieved by the Commission's order dated 26.6.2019 in Petition No. 315/GT/2018, had filed Review Petition No.18/RP/2019 and sought revision of the Normative Annual Plant Availability Factor (NAPAF) of the generating station. The Commission vide its order dated 8.11.2019 had disposed of the same dismissing the contentions of the Petitioner.

Present Petition

8. The annual fixed charges determined vide order dated 26.6.2019 in Petition No.315/GT/2018 as above, were subject to revision based on truing-up exercise in terms of Regulation 8 of the 2014 Tariff Regulations. Accordingly, the Petitioner has filed the present petition for truing-up of the tariff determined by order dated 26.6.2019, based on actual capital expenditure for the period from 13.5.2014, the COD of Unit-I to 31.3.2019. The capital cost [as per Form 1(i)] and the annual fixed charges claimed by the Petitioner in the present petition are as under:

Capital cost

(Rs. in lakh)

	13.5.2014 to 17.6.2014	18.6.2014 to 7.8.2014	8.8.2014 to 15.12.2014	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
Opening Capital Cost	162509.03	230051.54	300640.79	373140.49	384217.35	400465.65	416357.48	410407.70
Add: Addition during the year/ period	67542.51	70589.25	72499.70	11076.86	4823.46	8233.50	3255.91	5360.68
Less: De-capitalisation during the year/period	0.00	0.00	0.00	0.00	2503.34	194.64	7734.78	511.21
Additional capital expenditure claimed on net basis	67542.51	70589.25	72499.7	11076.86	2320.12	8038.86	(-)4478.87	4849.47
Add: Discharges during the year/period	0.00	0.00	0.00	0.0 0	13928.19	7852.97	(-)1470.91	(-)350.36
Additional capital expenditure after adding discharges	67542.51	70589.25	72499.7	11076.86	16248.31	15891.83	(-)5949.78	4499.11
Closing capital cost	**230051.54**	**300640.79**	**373140.49**	**384217.35**	**400465.65**	**416357.48**	**410407.70**	**414906.81**

Annual Fixed Charges

(Rs. in lakh)

	13.5.2014 to 17.6.2014	18.6.2014 to 7.8.2014	8.8.2014 to 15.12.20	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
Depreciation	956.30	1838.80	5968.16	5477.90	19470.48	20299.71	20526.05	20337.14
Interest on Loan	380.54	679.36	2636.17	2423.37	9335.27	11568.21	10661.60	13343.08
Return on Equity	1212.40	2321.94	7514.51	6887.24	24690.18	25701.48	26014.31	26037.25
Interest on Working Capital	8.72	23.44	196.96	150.44	1836.06	1969.98	2004.34	2107.90
O&M Expenses	572.02	1080.48	3442.71	3368.56	10946.13	11672.96	12448.04	13274.59
Total	**3129.98**	**5944.02**	**19758.51**	**18307.51**	**66278.12**	**71212.32**	**71654.34**	**75099.96**

9. The Petition was heard through video conferencing on 2.6.2020 and the Commission, after directing the Petitioner to file certain additional information, reserved its order in the matter. In compliance with the directions of the Commission, the Petitioner vide affidavit dated 6.7.2020, has filed the additional information and has served copies of the same on the Respondents. The Respondents, Uttar Pradesh Power Corporation Limited (UPPCL), M.P. Power Management Company Limited (MPPCL) and Punjab State Power Corporation Limited (PSPCL) have filed their replies vide affidavits dated 14.1.2020, 3.2.2020 and 27.7.2020 respectively. The Petitioner vide affidavits dated 17.2.2020, 19.2.2020 and 6.8.2020 has filed its rejoinder to the said replies. Based on the submissions of the parties and the documents available on record and on prudence check, we proceed to determine the tariff of the generating station for the period 2014-19 as stated in the subsequent paragraphs.

Capital Cost

10. Regulation 9 of the 2014 Tariff Regulations provides as under:-

"9 (1) The Capital cost as determined by the Commission after prudence check in accordance with this regulation shall form the basis of 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) *Increase in cost in contract packages as approved by the Commission;*

(d) *Interest during construction and incidental expenditure during construction as computed in accordance with Regulation 11 of these regulations;*

(e) *capitalised Initial spares subject to the ceiling rates specified in Regulation 13 of these regulations;*

(f) *expenditure on account of additional capitalization and de-capitalisation determined in accordance with Regulation 14 of these regulations;*

(g) *adjustment of revenue due to sale of infirm power in excess of fuel cost prior to the COD as specified under Regulation 18 of these regulations; and*

(h) *adjustment of any revenue earned by the transmission licensee by using the assets before COD.*

xxxx.."

11. The Petitioner vide affidavit dated 10.10.2019 has claimed capital cost vide Form 1(i) (Statement showing claimed capital cost), Form 5B (Break-up of capital cost) and Form 9E (Statement of capital cost), all duly certified by the Chartered Accountant, as detailed hereunder:

Form 1(i)

(Rs. in lakh)

	13.5.2014 to 17.6.2014	**18.6.2014 to 7.8.2014**	**8.8.2014 to 15.12.2014**	**16.12.2014 to 31.3.2015**	**2015-16**	**2016-17**	**2017-18**	**2018-19**
Opening Capital Cost	162509.03	230051.54	300640.79	373140.49	384217.35	400465.65	416357.48	410407.70
Add: Addition	67542.51	70589.25	72499.70	11076.86	4823.46	8233.50	3255.91	5360.68
Less: De-capitalization	0.00	0.00	0.00	0.00	2503.34	194.64	7734.78	511.21
Less: Reversal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Add: Discharges	0.00	0.00	0.00	0.0 0	13928.19	7852.97	(-)1470.91	(-) 350.36
Closing Capital Cost	**230051.54**	**300640.79**	**373140.49**	**384217.35**	**400465.65**	**416357.48**	**410407.70**	**414906.81**

Form 5B

(Rs. in lakh)

	13.5.2014	**18.6.2014**	**8.8.2014**	**16.12.2014**
Capital Cost without IDC, FC, FERV	113664.83	178182.83	242506.57	311057.89
Interest During Construction (IDC)	966.56	1828.04	2353.80	2638.19
Financing Charges (FC)	6582.31	6970.15	7271.71	7610.98
Foreign Exchange Rate Variation (FERV)	38263.43	40004.82	45393.46	48584.16

Normative Interest on notional loan	3031.91	3065.69	3115.25	3249.21
Total of IDC, FC, FERV & Hedging Cost	48844.20	51868.71	58134.22	62082.54
Capital cost including IDC, FC, FERV & Notional IDC (on cash basis)	162509.03	230051.54	300640.79	373140.43
Add: Un-discharged liabilities	26322.78	25547.27	25512.65	29254.58
Capital cost on accrual basis	**188831.80**	**255598.82**	**326153.44**	**402395.01**

Form 9E

(Rs. in lakh)

	13.5.2014	18.6.2014	8.8.2014	16.12.2014
(a) Gross Block amount as per books	**185825.77**	**252559.01**	**323064.07**	**399171.73**
Amount of capital liabilities in (a) above	26322.78	25547.27	25512.65	29254.58
Amount of IDC in (a) above	2039.62	2242.38	2420.03	2663.44
Amount of FC in (a) above	6582.31	6970.15	7271.71	7610.98
Amount of FERV in (a) above	38263.43	40004.82	45393.46	48584.16
Amount of Hedging Cost in (a) above	0.00	0.00	0.00	0.00
Amount of IEDC in (a) above	**30573.51**	**40875.55**	**51339.03**	**62241.41**

12. It is noticed that the Petitioner, in Form 5B, has not furnished break-up of IDC, FC and FERV as on 13.5.2014 (COD of Unit-1, II and V), 18.6.2014 (COD of Unit-IV) and 8.8.2014 (COD of Unit-III), stating that the same has been "included in Other Heads". However, as the Petitioner has submitted that the claim made in respect of the soft cost is as per Commission's order dated 26.6.2019 in Petition No. 315/GT/2018, these figures have been considered as allowed by the Commission vide order dated 26.6.2019.

13. Though the Petitioner has submitted that IDC, FC, FERV and normative IDC have been claimed as allowed by Commission's order dated 26.6.2019 in Petition No. 315/GT/2018, it has claimed capital cost, on cash basis, by adding the un-discharged liabilities deducted in order dated 26.6.2019. In this regard, the Petitioner has submitted that the capital cost claimed in Petition No.315/GT/2018 was already on cash basis and not on accrual basis, as observed by the Commission.

14. The matter has been considered. In Petition No. 315/GT/2018, the Petitioner had claimed tariff based on the capital cost for Rs.380647.39 lakh, which included the normative IDC of Rs.10730.86 lakh. As such, the capital cost claimed on cash basis, excluding normative IDC of Rs.10730.86, was Rs.369916.53 lakh (Rs.380647 lakh

minus Rs.10730.86 lakh). It was noticed that though the said amount of Rs. 369916.53 lakh was claimed to be on cash basis, the same as per Form 9E (submitted in Petition No. 315/GT/2018) included un-discharged liabilities amounting to Rs.29254.58 lakh. This was further corroborated by the gross block as per balance sheet, as on COD amounting to Rs.369917.16 lakh. Accordingly, the Commission had allowed tariff, considering the capital cost, after deduction of un-discharged liabilities of Rs.29254.58 lakh from the capital cost of Rs.369916.53 lakh. The relevant portion of the Commission's order dated 26.6.2019 in Petition No. 26.6.2019 is extracted below:

> *"22. It is observed that the gross block as per balance sheet, which is on accrual basis, matches with the capital cost as per Form 9E. This clarifies that the capital cost as per Form 1(i) and Form 5B are also on accrual basis, i.e. including the un-discharged liabilities and not on cash basis as claimed by the Petitioner. Accordingly, the capital cost claimed is considered on accrual basis as per Form 9E."*

15. The Petitioner, in the present petition, has submitted that the balance sheet as on COD (as submitted in Petition No. 315/GT/2018) has been prepared on cash basis and, hence, the gross block reflecting in the balance sheet is on cash basis only. The Commission vide ROP of the hearing dated 2.6.2020, had directed the Petitioner to indicate the accounting policy of the Company/ provision of the Companies Act under which the balance sheet as on COD has been prepared on cash basis along with reconciliation of the gross block, CWIP and liabilities as per balance sheet as on COD (16.12.2014) with the balance sheet as on 31.3.2015, duly certified by Auditor. The same is extracted hereunder:

> *"5 ……(d) The position as per balance sheet as on COD indicates an amount of Rs 29429.32 lakh booked under the head 'current liabilities'. The expenditure against which these liabilities as per balance sheet have been booked shall be explained;*
>
> *(e) To indicate the accounting policy of the Company/provision of the Companies Act under which the balance sheet as on COD has been prepared on cash basis;*
>
> *(f) The statement of reconciliation of the gross block, CWIP and liabilities as per balance sheet as on COD (16.12.2014) with the balance sheet as on 31.3.2015, duly certified by Auditor;*
>
> *xxxx.."*

16. In response, the Petitioner vide affidavit dated 6.7.2020, instead of replying to the queries raised in the ROP of the hearing dated 2.6.2020, has submitted the revised balance sheet as on COD. The revised balance sheet, claimed to be on accrual basis, indicates the gross block of Rs.399171.10 lakh against an amount of Rs.369917.16 lakh in terms of the balance sheet submitted earlier (i.e. with an increase of Rs.29253.94 lakh). A comparison of the balance sheet as on COD submitted earlier (claimed on cash basis) and submitted now (claimed on accrual basis) is as tabulated under:

(Rs. in lakh)

	New Balance Sheet	**Old Balance Sheet**	**Difference (New-Old)**
Inter-unit transfer	378333.63	357188.85	21144.78
Reserves & Surplus	(-) 8145.03	8698.42	(-) 16843.45
Current liabilities	34333.11	33448.27	884.84
Long Term Provisions	1226.64	971.71	254.93
A. Total (liability side)	**405748.36**	**400307.24**	**5441.12**
Gross Block (1)	399171.10	369917.16	29253.94
Depreciation (2)	(-) 13437.37	(-) 10253.56	(-) 3183.81
Net Block (1-2)	385733.73	359663.59	26070.14
Capital Work in Progress (CWIP)	12286.53	32915.55	(-) 20629.02
Long term Loans and advances	5696.20	5696.20	0.00
Other N.C. Assets	70.96	70.96	0.00
Current assets	1960.94	1960.94	0.00
B. Total (Asset side)	**405748.36**	**400307.24**	**5441.12**

17. It is observed that in the revised balance sheet in which the gross block is claimed on accrual basis, there is an increase in the gross block by Rs. 29253.94 lakh, which has been adjusted by reducing the Capital Work in Progress (CWIP) by Rs. 20629.02 lakh and other adjustments as shown above.

18. It is noticed that the Petitioner has revised the balance sheet without furnishing any reason or explanation for the same. It is also observed that Form 9A (Year-Wise Statement of Additional Capitalisation) for the period from 16.12.2014 to 31.3.2015, shows additional capitalization of Rs.39850.69 lakh, on accrual basis. If the gross block as per the balance sheet submitted earlier (for Rs.369917.16 lakh) is considered, then with addition as per Form 9A as above, it matches with the gross block position as per

balance sheet as on 31.3.2015 [i.e. Rs.409767.85 lakh (Rs.369917.16 + Rs.39850.69)] with a minor difference of Rs. 0.63 lakh. However, if this addition is considered in the gross block, as per the revised balance sheet, then the gross block as on 31.3.2015 works out to Rs. 439021.79 lakh (Rs.399171.10 + Rs.39850.69), which does not match with the gross block as per balance sheet amounting to Rs.409767.22 lakh, as on 31.3.2015. The CWIP position as on COD for Rs.32916.44 lakh submitted vide Form 9F is as per the balance sheet submitted earlier. It is, therefore, observed that the gross block amounts, the CWIP on various dates etc., in various forms as furnished in the present petition match with the balance sheet submitted in Petition No. 315/GT/2018, but not with the revised balance sheet submitted in present petition. Accordingly, in the absence of any justification and reason for the revision of the balance sheet and keeping in view that the information furnished in Form 9A and Form 9F is based on the balance sheet submitted earlier, the revised balance sheet has not been considered. Instead the duly certified balance sheet furnished in Petition No.315/GT/2018 has been considered for the purpose of tariff. Accordingly, the capital cost has been allowed on the basis of the balance sheet submitted earlier, i.e. considering the gross block as on COD amounting to Rs. 369917.16 lakh, on accrual basis.

19. The Respondent, UPPCL has submitted that the capital cost may be either restricted to original approved cost of Rs.2047.05 crore or to DIA vetted cost of Rs.3996 crore as on COD of the generating station. It is also submitted that in respect of approval of RCE, the Commission may direct the Petitioner to submit the observations raised by PMO along with the reply of the Petitioner to the same. The Respondent, MPPCL has submitted that the Commission may disallow the capital expenditure incurred on items other than the admitted items. The Petitioner in its rejoinder to reply of UPPCL has clarified that the difference of Rs.0.63 lakh under Form 5B and Form 9E is due to

rounding off. It is also submitted that the observation of the PMO dated 14.2.2019 and the Petitioner's response thereof dated 25.2.2019 are enclosed along with the rejoinder dated 17.2.2020. In its rejoinder to reply of MPPMCL, the Petitioner has clarified that the amount claimed under Form 5B forms part of project cost as per audited annual accounts for the respective years. It has also stated that the details of actual additional expenditure along with its justification for the period 2014-19 have been submitted in the Form 9A vide affidavit dated 10.10.2019.

Interest During Construction

20. The Commission vide its order dated 26.6.2019 in Petition No.315/GT/2018, has allowed Interest During Construction (IDC), as on COD of each unit, as under:

(Rs. in lakh)

13.5.2014	18.6.2014	8.8.2014	16.12.2014
966.56	1828.04	2353.80	2638.19

21. The Petitioner has claimed IDC as has been allowed by the Commission vide its order dated 26.6.2019 in Petition No. 315/GT/2018 stating that the unit-wise IDC amount as allowed by the Commission after prudence check is agreeable without any comments. The Respondents, UPPCL and MPPCL have submitted that despite specific directions of the Commission, the Petitioner has not furnished the required information regarding IDC and, hence, adverse inference may be drawn against the Petitioner. In response, the Petitioner has referred to Form 14 (draw down schedule for calculation of IDC) of the petition and clarified that the information as sought for by the Commission had been submitted vide affidavit 10.10.2019.

22. In the Commission's order dated 26.6.2019 in Petition No. 315/GT/2018, IDC was allowed after prudence check of the information furnished by the Petitioner (vide affidavit dated 5.9.2018), namely, the loan agreements dated 15.1.2008 and 11.1.2014 in respect of the loans from International Bank for Reconstruction and Development (IBRD) and

State Bank of India (SBI); Form 14 duly certified by Auditor; and the details pertaining to drawl, repayment and rate of interest etc. Since IDC had been allowed in order dated 26.6.2019 only after prudence check, the same has been considered and allowed in this order as under:

(Rs. in lakh)

	13.5.2014	18.6.2014	8.8.2014	16.12.2014
IDC claimed in Petition No. 315/GT/2018	2039.62	2242.38	2420.03	2663.44
IDC allowed by the Commission vide order dated 26.6.2019	966.56	1828.04	2353.80	2638.19
IDC allowed in the present order	966.56	1828.04	2353.80	2638.19

Financing Charges

23. The Petitioner has claimed Financing Charges (FC) as allowed by the Commission vide its order dated 26.6.2019 in Petition No.315/GT/2018, as under:

(Rs. in lakh)

13.5.2014	18.6.2014	8.8.2014	16.12.2014
6582.31	6970.15	7271.71	7610.98

24. As FC allowed vide order dated 26.6.2019 were after prudence check of the information furnished by the Petitioner vide affidavit dated 5.9.2018 in Petition No.315/GT/2018, namely, the loan agreements; Form 9E duly certified by the Chartered Accountant; and detailed break-up and calculation of FC along with clarification furnished vide affidavit dated 6.12.2018, the same has been allowed for the purpose of tariff.

Foreign Exchange Rate Variation

25. The Petitioner has claimed Foreign Exchange Rate Variation (FERV) as allowed by the Commission vide its order dated 26.6.2019 in Petition No.315/GT/2018, as under:

(Rs. in lakh)

13.5.2014	18.6.2014	8.8.2014	16.12.2014
38263.43	40004.82	45393.46	48584.16

26. The claim of the Petitioner for FERV as above has been allowed by the Commission on the basis of Form 9E, duly certified by the Chartered Accountant and

Chartered Accountant's certificate with respect to the calculation of the claimed FERV. The amount of FERV capitalized has also been verified from the generating station's balance sheets since the inception of fund infusion as submitted by the Petitioner in the present petition. Since, FERV allowed by the Commission in order dated 26.6.2019 was after prudence check and verification of the financial statements, the same have been allowed in this order.

Normative IDC

27. The Petitioner has claimed normative IDC as allowed vide Commission's order dated 26.6.2019 in Petition No.315/GT/2018, as under:

(Rs. in lakh)

13.5.2014	18.6.2014	8.8.2014	16.12.2014
3031.91	3065.69	3115.25	3249.21

28. It is observed that the Commission in its order dated 26.6.2019 had allowed normative IDC up to actual COD of the generating station (16.12.2014). In this regard, Regulation 11 (A) of the 2014 Tariff Regulations, provides as under:

"11. Interest during construction (IDC), Incidental Expenditure during Construction (IEDC)

(A) Interest during Construction (IDC):

(1) Interest during construction shall be computed corresponding to the loan from the date of infusion of debt fund, and after taking into account the prudent phasing of funds upto SCOD.

(2) In case of additional costs on account of IDC due to delay in achieving the SCOD, the generating company or the transmission licensee as the case may be, shall be required to furnish detailed justifications with supporting documents for such delay including prudent phasing of funds:

Provided that if the delay is not attributable to the generating company or the transmission licensee as the case may be, and is due to uncontrollable factors as specified in Regulation 12 of these regulations, IDC may be allowed after due prudence check:

Provided further that only IDC on actual loan may be allowed beyond the SCOD to the extent, the delay is found beyond the control of generating company or the transmission licensee, as the case may be, after due prudence and taking into account prudent phasing of funds.

xxxx.."

29. In accordance with the second proviso of Regulation 11(2) of the 2014 Tariff

Regulations, the normative IDC is allowed up to the scheduled COD. It is pertinent to mention that the Commission vide its order dated 28.10.2019 in Petition No.43/GT/2018 in respect of approval of tariff of Kishanganga HEP for the period from 18.5.2018 to 31.3.2019 and vide its order dated 6.1.2020 in Petition No.178/GT/2017 in respect of approval of tariff of Solapur STPS for the period from 25.9.2017 to 31.3.2019, had restricted the normative IDC up to scheduled COD. Accordingly, in the present case, normative IDC has been recomputed up to the scheduled COD i.e. up to 24.1.2012, which amounts to Rs. 2701.71 lakh. The same has been apportioned as on COD of each unit in proportion of unit-wise capacity, as on respective COD. Accordingly, the normative IDC claimed by the Petitioner and allowed vide Commission's order dated 26.6.2019 and the normative IDC allowed in this order, are as under:

(Rs. in lakh)

	13.5.2014	**18.6.2014**	**8.8.2014**	**16.12.2014**
Normative IDC claimed in Petition No. 315/GT/2018	5262.79	7057.02	8867.00	10730.86
Normative IDC allowed by the Commission vide order dated 26.6.2019	3031.91	3065.69	3115.25	3249.21
Normative IDC allowed in the present order	1350.86	1801.14	2251.43	2701.71

Un-discharged liabilities as on COD of each Unit

30. The Petitioner has claimed following un-discharged liabilities, as on COD of each unit, vide Form 9E and vide Form 16, duly certified by the Auditor:

(Rs. in lakh)

13.5.2014	**18.6.2014**	**8.8.2014**	**16.12.2014**
26322.78	25547.27	25512.65	29254.58

31. The un-discharged liabilities as on COD of each unit claimed by the Petitioner, had been allowed by the Commission in its order dated 26.6.2019 in Petition No. 315/GT/2018. Accordingly, the same has been allowed in this order.

Initial Spares

32. Regulation 13(c) of the 2014 Tariff Regulations provides as under:

"13. Initial spares shall be capitalized as a percentage of the Plant and Machinery cost upto cut-off date, subject to following ceiling norms:

(c) Hydro generating stations including pumped storage hydro generating station - 4.0%"

33. As regards Initial spares, the Commission vide its order dated 26.6.2019 in Petition No. 315/GT/2018 had observed the following:

"45. The Petitioner in Form 5(B) has claimed initial spares for Rs.6524 lakh and Plant & Equipment cost of Rs.63442 lakh. In terms of the above regulation, the permissible amount for initial spares, works out to Rs.2372 lakh. Therefore, initial spares have been restricted to Rs.2372 lakh for this generating station and the excess amount of Rs.4152 lakh has been deducted from capital cost as on COD of the generating station (16.12.2014). This works out to Rs.376495.38 lakh (380647.38 – 4152.00). The excess amount of Rs.4152 lakh has been reduced from the RCE of Rs.423321.00 lakh. Accordingly, the completion cost of the generating station after considering the amount of IDC disallowed and excess initial spares disallowed comes to Rs.419143.75 lakh (423321.00–25.25- 4152.00). The same shall be subject to true-up based on the actual additional capital expenditure."

34. As regards excess initial spares, the Petitioner has requested to consider the actual expenditure incurred on initial spares for the generating station for the period from actual COD of 1st unit i.e. 13.5.2014 to 31.3.2019 and submitted the following:

"24. Against Cost to Completion of RHPS amounting to Rs 4233.21 Crore, an amount of Rs 65.24 Crore has been considered as Initial Spares. The actual initial spares claimed in this petition are amounting to Rs 59.48 Crore up to 31.03.2017. The higher initial spares claimed in this petition are due to following reasons:

a) Regulation 33 of CERC (Terms and Conditions of Tariff) Regulations, 2004 is reproduced here as under:

33. Capital Cost: Subject to prudence check by the Commission, the actual expenditure incurred on completion of the project shall form the basis for determination of final tariff. The final tariff shall be determined based on the admitted capital expenditure actually incurred up to the date of commercial operation of the generating station and shall include initial capital spares subject to a ceiling norm of 1.5% of the original project cost as on the cutoff date……."

b) Regulation 8 of CERC (Terms and Conditions of Tariff) Regulations, 2009 is reproduced here as under:

8. Initial Spares. Initial spares shall be capitalised as a percentage of the original project cost, subject to following ceiling norms:
xxxxx

(iii) Hydro generating stations - 1.5%

Provided that where the benchmark norms for initial spares have been published as part of the benchmark norms for capital cost under first proviso to clause (2) of regulation 7, such norms shall apply to the exclusion of the norms specified herein.

c) Pre-construction/ Construction activities were started in RHPS from Fy 2004-05 onwards and the Contract of EM package was awarded in the year 2007-08. Based on the applicable regulations during the period 2004-09, initial capital spares subject to a ceiling norm of 1.5% of the original project cost as on the cutoff date were procured for Rampur Project.

xxxx.."

35. The Commission, vide ROP of the hearing dated 2.6.2020, directed the Petitioner to submit the following:

"As regards the claim for initial spares on actual basis, the completion cost of the project envisaged during 2008-09 to be furnished. Also, affidavit to the effect that the total initial spares claimed as on COD of the generating station and beyond COD, form part of the original scope and also form part of the RCE amount of Rs.4233.21 crore as recommended by the Standing Committee;"

36. In response, the Petitioner vide affidavit dated 6.7.2020 has submitted the following:

"The details of initial spares forming part of the E&M cost as per DPR and the total initial spares claimed as on COD of the generating station and beyond COD, form part of the original scope and also form part of the RCE amount of Rs.4233.21 crore as recommended by the Standing Committee is enclosed ".

37. The Petitioner has provided the break-up of the cost estimate of E&M works as approved by CCEA at 2006 Price Level and RCE for Rs. 2047.03 crore and Rs. 4233.21 crore respectively, indicating the total cost of initial spares in each. The details are as extracted under:

(Rs. in lakh)

Sr. No.	Item	CCEA sanctioned cost at March 2006 Price level	Cost to completion
1.12	Initial Spare (Indian)	1743	6311
1.13	Initial Spare (Foreign)	174	213
	Total	1917	6524

38. In terms of Regulation 13(c) of the 2014 Tariff Regulations, the revised cost of initial spares has been worked out as Rs.2429.83 lakh as against the cost of initial spares amounting to Rs. 5948 lakh, actually capitalized by the Petitioner which form part of the Plant and Machinery cost of Rs.64264 lakh as on the cut-off date. The calculations, in this regard, are as under:

(Rs. in lakh)

(a) Plant and Machinery cost as on cut-off date i.e. 31.3.2017 as per Form 5 B	64264.00
(b) Initial spares actually capitalized in (a) above	5948.00
(c) Plant and machinery cost excluding initial spares (a)-(b)	58316.00
(d) Allowable initial spares as per Regulation 13(c) of the 2014 Tariff Regulations @ 4% = (c)x(4%/96%)	2429.83

39. The excess amount of initial spares claimed i.e. Rs.3518.17 lakh (Rs.5948.00 minus Rs.2429.83) has been deducted from capital cost, as on COD of the generating station (16.12.2014).

40. As regards the excess initial spares claimed by the Petitioner, over and above the ceiling specified under Regulation 13(c) of the 2014 Tariff Regulations, we are of the view that due to time overrun and cost overrun, there has been increase in the project cost and therefore, it would not be prudent to consider any increase in spares, over and above the limit permissible in terms of the regulations. Accordingly, initial spares, in terms of Regulation 13(c) of the 2014 Tariff Regulations, have only been allowed for the purpose of tariff.

Capital cost allowed as on COD

41. Based on the above discussions, the capital cost as on COD, allowed vide the Commission's order dated 26.6.2019 in Petition No. 315/GT/2018 is revised considering the changes in the normative IDC allowed and the amount of initial spares disallowed. There is, however, no change in the hard cost, IDC, FC and FERV. Accordingly, the capital cost allowed for the purpose of tariff as on COD of the unit/ generating station is as under:

(Rs. in lakh)

	13.5.2014	**18.6.2014**	**8.8.2014**	**16.12.2014**
Capital cost as on COD of units as allowed vide Commission's order dated 26.6.2019 in Petition No. 315/GT/2018	135139.07	204115.82	275087.78	339734.54
Add: Excess Initial spares disallowed order dated 26.6.2019 in Petition No.	-	-	-	4152.00

315/GT/2018				
Less: Excess Initial spares disallowed in present petition	-	-	-	3518.17
Less: Normative IDC allowed vide Order dated 26.6.2019 in Petition No. 315/GT/2018	3031.91	3065.69	3115.25	3249.21
Add: Normative IDC allowed	1350.86	1801.14	2251.43	2701.71
Capital cost as on COD of units	**133458.02**	**202851.26**	**274223.96**	**339820.87**

42. With regard to completion cost of the project, the Commission vide its order dated 26.6.2019 in Petition No.315/GT/2018 has allowed completion cost of the project as Rs. 419143.75 lakh excluding an amount of Rs.4152.00 lakh for excess initial spare. However, in the instant petition, the Commission has disallowed an amount of Rs. 3518.17 lakh for excess initial spares capitalized. Accordingly, the completion cost of the project is revised to Rs.419777.58 lakh (Rs.419143.75 + Rs.4152.00 - Rs.3518.17). As such, considering the revised capital cost as on COD of the generating station i.e. 16.12.2014 amounting to Rs.339820.87 lakh (including normative IDC of Rs.2701.71 lakh) and the completion cost of Rs. 419777.58. lakh (excluding normative IDC), the balance limit available for additional capital expenditure in respect of assets/ works within the original scope of work/ RCE is worked out as under:

(Rs. in lakh)

(a) Capital cost allowed as on COD of the generating station	339820.87
(b) NIDC included in above	2701.71
(c) Capital cost as on COD of the generating station for assets/works under the original scope/RCE [(c) = (a)-(b)]	337119.16
(d) Completion cost allowed	419777.58
(e) Balance limit available for additional capital expenditure for assets/works under original scope/RCE [(e) = (d)-(c)]	82658.42

Liquidated Damages & Insurance Money

43. The Commission vide ROP of the hearing dated 2.6.2020 had directed the Petitioner to submit the following:

> *(o) The complete date-wise details as regards the LD and Insurance amount claimed & received till date and the amounts expected to be recovered;*

44. The Petitioner vide affidavit dated 6.7.2020 has submitted the year-wise details of

Liquidated Damages (LD) recognized in the books of accounts as under:

(Rs. in lakh)

Sr. No	Financial Year	Amount
1	2015-16	12.16
2	2016-17	20.11
3	2017-18	8.56
4	2018-19	110.24
Total		**132.97**

It is noticed that the Petitioner has wrongly indicated the total of the year-wise LD amount recognized in the books as Rs.132.97 lakh instead of Rs.151.07 lakh.

45. The Petitioner has further submitted that the insurance amount of Rs. 22.22 lakh has been received against refund of premium on account of reduction of sum insured of Business Interruption (BI) for the insurance coverage of the generating station for the period with effect from 5.4.2014 to 4.4.2015. The Petitioner has also submitted that the LD amount recovered during the construction was charged to CWIP and reduced from the assets capitalized. In this regard, the Petitioner has furnished audited schedule from annual accounts of the respective years.

46. The Respondent, UPPCL in its reply affidavit dated 14.1.2020 has submitted that the Petitioner has recovered LD amounting to Rs.110.23 lakh and insurance claim for Rs. 22.22 lakh in the year 2018-19. In view of the above, it has prayed that the Commission may disallow the aforesaid amounts from the capital cost for the year 2018-19. In response, the Petitioner vide its rejoinder affidavit dated 17.2.2020, has submitted the details of LD amounting to Rs. 110.23 lakh as under:

(Rs. in lakh)

Sr. No.	Head of the Work	Amount	Remarks
1	Purchase and O&M Contracts	23.06	Pertains to various purchases and O&M Contracts.
2	Supply installation of 80MVA Reactor G.E. Power India Limited. (Formerly Alstom India Ltd.)	37.24	No cash claim made with respect of this amount till date. The amount appears in un-discharged liabilities for the year 2018-19.

3	Procurement of HV Spares of 400 KV GIS at Rampur HPS, GE T&D India Limited (Alstom). PPR-O&M-194	48.67	Capitalized.
4	Providing and Fixing of Electrical installation in runner repair workshop, mechanical and electrical workshop at RHPS (PCD-681).	0.30	Capitalized.
5	Supply and Installation of Illumination for memorial constructed in RHPS colony PCD 650.	0.98	Capitalized.
	Total	**110.24**	

47. We have examined the matter. From the audited accounts of the respective years, we observe that the Petitioner has received LD amounting to Rs.151.07 lakh and insurance claim amounting to Rs. 22.22 lakh during the period from 2015-16 to 2018-19. However, the Petitioner has not furnished any details of adjustment of the amount so received in the capital cost along with the documentary evidence of such adjustment. As regards the amount of Rs.23.06 lakh received in the year 2018-19 claimed to be pertaining to various purchases and O&M contracts, the Petitioner has not submitted any documentary evidence or details. The Petitioner has further submitted that the amount of Rs. 37.24 lakh received in the year 2018-19 still appears in un-discharged liabilities and no cash claim has been made against it. However, this submission of the Petitioner is also not supported by any documentary evidence or explanation as to why the amount of Rs. 37.24 lakh has not been claimed and reconciliation of the un-discharged liabilities for the year 2018-19 with the said amount. Accordingly, the amount received on account of LD amounting to Rs.151.07 lakh and insurance claim amounting to Rs.22.22 lakh during the period from 2015-16 to 2018-19 has been deducted from the capital cost of the respective years allowed for tariff.

Discharge of liability for the period 2014-19

48. The year-wise discharge of liabilities claimed by the Petitioner vide Form 1(I) and

Form 16 is as under:

(Rs. in lakh)

16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
-	13928.19	7852.97	(-) 1470.91	(-) 350.36

49. The Petitioner has furnished details regarding the discharge of liabilities for the period from 16.12.2014 to 31.3.2019 vide Form 16 (liability flow statement), duly certified by the Auditor, based on audited financial statements of the respective financial years. As regards the negative entry in discharge of liability, the Petitioner has submitted in the present petition as under:

> *"The negative entry in discharge is due to consideration of interest on arbitration award which has been booked under P&L account however claimed here as per CERC regulation.*
>
> *As pointed out by CERC in its order dated 26.6.2019 regarding negative entry in discharges it is to submit that during the year 2017-18 the de-capitalization of assets towards hydro allowance amounting to Rs. 74 Cr impacted the corresponding liability"*

50. The Petitioner, vide its affidavit dated 6.7.2020 furnished a copy of arbitration awards schedule from audited annual accounts, duly certified by Auditor for the years 2017-18 and 2018-19 for provision of amount of interest as recognized in the books, the detailed entries of de-capitalization of hydro allowance of Rs.74 crore in 2017-18 and reconciliation of Form 9b(i) with de-capitalization of assets towards hydro allowance of Rs.74 crore. Based on these details and the Form 16, duly certified by the Auditor, the discharge of liabilities has been allowed as claimed of the Petitioner.

Additional Capital Expenditure

51. Clause (3) of Regulation 7 of the 2014 Tariff Regulations provides that the application for determination of tariff shall be based on admitted capital cost including any additional capital expenditure already admitted upto 31.3.2014 (either based on actual or projected additional capital expenditure) and estimated additional capital expenditure for the respective years of the 2014-19 tariff period.

52. Regulation 14 of the 2014 Tariff Regulations provides as under:

"14. Additional Capitalization and De-capitalization:

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

(i) Un-discharged liabilities recognized to be payable at a future date;

(ii) Works deferred for execution;

(iii) Procurement of initial capital spares within the original scope of work, in accordance with the provisions of Regulation 13;

(iv) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law; and

v) Change in law or compliance of any existing law:

Provided that the details of works asset wise/work wise included in the original scope of work along with estimates of expenditure, liabilities recognized to be payable at a future date and the works deferred for execution shall be submitted along with the application for determination of tariff."

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

(i) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law;

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

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

(iv) Any liability for works executed prior to the cut-off date, after prudence check of the details of such un-discharged liability, total estimated cost of package, reasons for such withholding of payment and release of such payments etc.

(3) 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 after the cut-off date, may be admitted by the Commission, subject to prudence check:

(i) Liabilities to meet award of arbitration or for compliance of the order or decree of a court of law;

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

(iii) Any expenses to be incurred on account of need for higher security and safety of the plant as advised or directed by appropriate Government Agencies of statutory authorities responsible for national security/internal security;

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

(v) Any liability for works executed prior to the cut-off date, after prudence check of the details of such un-discharged liability, total estimated cost of package, reasons for such withholding of payment and release of such payments etc.;

(vi) Any liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments;

(vii) Any additional capital expenditure which has become necessary for efficient operation of generating station other than coal /lignite based stations or transmission system as the case may be. The claim shall be substantiated with the technical justification duly supported by the documentary evidence like test results carried out by an independent agency in case of deterioration of assets, report of an independent agency in case of damage caused by natural calamities, obsolescence of technology, up-gradation of capacity for the technical reason such as increase in fault level;

(viii) In case of hydro generating stations, any expenditure which has become necessary on account of damage caused by natural calamities (but not due to flooding of power house attributable to the negligence of the generating company) and due to geological reasons after adjusting the proceeds from any insurance scheme, and expenditure incurred due to any additional work which has become necessary for successful and efficient plant operation;

(ix) In case of transmission system, any additional expenditure on items such as relays, control and instrumentation, computer system, power line carrier communication, DC batteries, replacement due to obsolesce of technology, replacement of switchyard equipment due to increase of fault level, tower strengthening, communication equipment, emergency restoration system, insulators cleaning infrastructure, replacement of porcelain insulator with polymer insulators, replacement of damaged equipment not covered by insurance and any other expenditure which has become necessary for successful and efficient operation of transmission system; and

(x) Any capital expenditure found justified after prudence check necessitated on account of modifications required or done in fuel receiving system arising due to non-materialization of coal supply corresponding to full coal linkage in respect of thermal generating station as result of circumstances not within the control of the generating station:

Provided that any expenditure on acquiring the minor items or the assets including tools and tackles, furniture, air-conditioners, voltage stabilizers, refrigerators, coolers, computers, fans, washing machines, heat convectors, mattresses, carpets etc. brought after the cut-off date shall not be considered for additional capitalization for determination of tariff w.e.f. 1.4.2014:

Provided further that any capital expenditure other than that of the nature specified above in (i) to (iv) in case of coal/lignite based station shall be met out of compensation allowance:

Provided also that if any expenditure has been claimed under Renovation and Modernisation (R&M), repairs and maintenance under (O&M) expenses and Compensation Allowance, same expenditure cannot be claimed under this regulation."

53. The year-wise break-up of the actual additional capital expenditure (including discharge of liabilities and excluding un-discharged liabilities and de-capitalization) claimed by the Petitioner for the 2014-19 tariff period is as under and the same is examined in subsequent paragraphs of this order:

(Rs. in lakh)

	2014-15	2015-16	2016-17	2017-18	2018-19
Additional capital expenditure including un-discharged liabilities claimed as per Form- 9(A)	39850.69	4823.44	8233.50	5122.54	5360.68
Less: Un-discharged liabilities included in additional capital expenditure above	28773.83	0.00	0.00	1866.62	0.00
(a) Additional capital expenditure claimed on cash basis	**11076.86**	**4823.44**	**8233.50**	**3255.91**	**5360.68**
(b) De-capitalization claimed (as per Form-9Bi)	0.00	2503.34	194.64	7734.78	511.21
(c) Net Additional capital expenditure claimed [(c) =(a)-(b)]	**11076.86**	**2320.10**	**8038.86**	**(-) 4478.87**	**4849.47**

2014-18

54. The break-up of additional capital expenditure excluding discharge of liability claimed by the Petitioner in this petition for the said period as compared to the additional capital expenditure excluding discharge of liability allowed by the Commission vide its order dated 26.6.2019 in Petition No. 315/GT/2018 is as under:

(Rs. in lakh)

	2014-15	2015-16	2016-17	2017-18
(a) Additions allowed vide Commission's order dated 26.6.2019	11076.86	4823.44	8233.50	3256.23
(b) Additions claimed in this petition	11076.86	4823.44	8233.50	3255.91
(c) De-capitalization considered in Commission's order dated 26.6.2019 and claimed in this petition	0.00	2503.34	194.64	7734.78
(d) Total additional capital expenditure allowed for the period 2014-18 excluding discharges of liabilities in Commission's order dated 26.6.2019 **[(d)= (a) - (c)]**	11076.86	2320.10	8038.86	(-) 4478.55
(e) Additional capital expenditure claimed for the period 2014-18 in present petition **[(e) = (b) - (c)]**	**11076.86**	**2320.10**	**8038.86**	**(-)4478.87**

55. It is observed from the above table that there is no variation between the additional capital expenditure allowed vide the Commission's order dated 26.6.2019 in Petition No.315/GT/2018 as against those claimed in the present petition for the period 2014-18, except for an amount of Rs.0.32 lakh during the year 2017-18. In this regard, it is pertinent to mention that the Petitioner, in Petition No.315/GT/2018, had claimed an expenditure of Rs. 1587.41 lakh under the head 'Buildings' and the same was allowed

vide Commission's order dated 26.6.2019. However, the Petitioner, in the present petition, has claimed an amount of Rs.1587.09 lakh during the year 2017-18 under the said head, thereby causing a difference Rs.0.32 lakh. Since the asset/ work has already been allowed by the Commission in its order dated 26.6.2019 in Petition No.315/GT/2018 and the expenditure claimed in the present petition is lesser than the allowed expenditure, the amount of Rs.1587.09 lakh claimed by the Petitioner, in the present petition is allowed.

56. It is further observed that the addition in the gross block from 16.12.2014 to 31.3.2015 as per Form 9A has been depicted as Rs.39850.69 lakh which includes un-discharged liabilities of Rs. 28773.83 lakh. As such, the total un-discharged liabilities as on 31.3.2015 would amount to Rs.52028.41 lakh (Rs.29254.58 lakh as on COD + Rs.28773.83 lakh included in additional capital expenditure as per Form 9A). However, the balance sheet as on 31.3.2015 shows liabilities amounting to Rs.28773.83 lakh only. Thus, it is noticed that the position as submitted by the Petitioner vide Form 9A for the year 2014-15 has an erroneous depiction. Hence, the additional capital expenditure for the period from 16.12.2014 to 31.3.2015 has been derived from the balance sheets as on respective dates as below:

(Rs. in lakh)

Sr. No.		**As on 16.12.2014 (1)**	**As on 31.3.2015 (2)**	**Addition (2-1)**
1	Gross Block as per balance sheet	369917.16	409767.85	39850.69
2	Liabilities included in the gross block	29254.58	28773.83	(-)480.75
3	**Gross Block on cash basis (1-2)**	**340662.58**	**380994.02**	**40331.44**

57. Thus, the addition in the gross block on cash basis as per the balance sheets as on respective dates from 16.12.2014 to 31.3.2015 amounts to Rs. 40331.44 lakh. Since the depiction in Form 9A for the year 2014-15 has been found erroneous as discussed above, the additional capital expenditure on cash basis has been considered as derived

from the balance sheets. Further, the same has been restricted to Rs. 39850.69 lakh, i.e. upto the amount claimed by the Petitioner as additional capital expenditure on accrual basis.

58. Accordingly, the net additional capital expenditure including additions, discharge of liabilities, and de-capitalization allowed for the period 2014-18 for the purpose of tariff is as under:

(Rs. in lakh)

	2014-15	**2015-16**	**2016-17**	**2017-18**	**Total**
Add: Additions allowed in this Petition **(a)**	39850.69	4823.44	8233.50	3255.91	56163.55
Add: Discharge of liabilities allowed vide Commission's order dated 26.6.2019 and considered in this petition **(b)**	0.00	13928.19	7852.97	(-)1470.91	20310.24
Less: De-capitalization allowed vide Commission's order dated 26.6.2019 and considered in this petition **(c)**	0.00	2503.34	194.64	7734.78	10432.76
Net additional capital expenditure allowed during 2014-18 in this petition (d) = (a)+(b)(c)	**39850.69**	**16248.29**	**15891.83**	**(-)5949.78**	**66041.03**

59. In view of the above, total addition of Rs.76473.79 lakh including discharge of liabilities (i.e. (a) + (b) of the table above) has been allowed under original scope/ RCE for the period 2014-18. As discussed in paragraph 42 above, the available limit of additional capital expenditure for balance works/ assets within the original scope of work/ RCE is Rs.82658.42 lakh as on COD of the generating station (16.12.2014). Accordingly, the available limit for additional capital expenditure for works/ assets under original scope/ RCE for the year 2018-19 works out to Rs.6184.63 lakh (Rs.82658.42-Rs. 76473.79).

2018-19

60. The Commission vide ROP of the hearing dated 2.6.2020 had directed the Petitioner to furnish the following additional information:

> *"{(a) As regards the claim for initial spares on actual basis, the completion cost of the project envisaged during 2008-09 to be furnished. Also, affidavit to the effect that the total initial spares claimed as on COD of the generating station and beyond COD, form part of the*

original scope and also form part of the RCE amount of Rs. 4233.21 crore as recommended by the Standing Committee;

(b) Certificate to the effect that additional capital expenditure claimed for 2018-19 is towards assets/works which form part of original scope of work/RCE;

(c) Details/nature of the asset along with proper justification in respect of the claim at Sl.no.2 for 2018-19, under the head 'Plant & Machinery';

(d) The position as per balance sheet as on COD indicates an amount of Rs 29429.32 lakh booked under the head 'current liabilities'. The expenditure against which these liabilities as per balance sheet have been booked shall be explained;

(e) To indicate the accounting policy of the Company/provision of the Companies Act under which the balance sheet as on COD has been prepared on cash basis;

(f) The statement of reconciliation of the gross block, CWIP and liabilities as per balance sheet as on COD (16.12.2014) with the balance sheet as on 31.3.2015, duly certified by Auditor;

(g) Unit-wise allocation of IDC, as per Commission's order dated 26.6.2019 in Petition No.315/GT/2018;

(h) Details in respect of IBRD loan as per Commission's order dated 26.6.2019 indicating (i) the amount of unused IBRD loan, (ii) the amount invested, (iii) the rate of interest with respect to such investment, (iv) the duration of the investments, all duly certified by Auditor (v) the certified reconciliation statement between the actual cash expenditure incurred and the sources of finance during the period when such unused portion of IBRD loan was invested;

(i) Balance sheets with complete notes/ schedules since 1st infusion of fund and reconciliation of the same with the cash expenditure as per Form 14A;

(j) As regards the negative entry in discharge of liability, the clarification furnished is insufficient. Accordingly, the following details shall be furnished:

(i) Arbitration award and interest thereon which has been referred as negative entry in discharges;

(ii) Details of the hydro allowance as referred by the petitioner; and

(iii) Reconciliation of the Form 9b (i) with the de-capitalisation of assets towards hydro allowance amounting to Rs. 74 crore, duly certified by Auditor.

(k) Against the claim of the Petitioner for Rs 5247.56 lakh towards actual additional capitalisation in 2017-18 in Petition No. 315/GT/2018, an amount of Rs 3256.23 lakh was allowed. However, an amount of Rs 3255.91 lakh has been claimed as additional capitalisation for 2017-18 in the present petition. Hence, the reason for difference of Rs. 0.32 lakh in the actual additional capitalization claim for 2017-18 shall be clarified;

(l) Statement of reconciliation of Form 5(B) as on 16.12.2014 furnished in the present petition with that furnished in Petition No. 315/GT/2018;

(m) Details and the basis of allocation of the corporate office expenditure as indicated in Form 9(c). Also, clarification to be submitted as to whether the said expenses are included in the additional capitalisation claimed vide Form 9(A). If so, the 'heads' under which included;

(n) Statement of reconciliation of the un-discharged liabilities as per Form 16 with the balance sheet of the respective years;

(o) The complete date-wise details as regards the LD and Insurance amount claimed & received till date and the amounts expected to be recovered; and

(p) Complete Cost Audit Report for the years 2014-15 & 2015-16 to be furnished.

61. In response, the Petitioner vide its affidavit dated 6.7.2020 has submitted the additional information sought for. As regards the submission of "*Certificate to the effect that additional capital expenditure claimed for 2018-19 is towards assets/works which form part of original scope of work/RCE',* the Petitioner has submitted that the additional capital expenditure claimed for the year 2018-19 towards assets/ works form part of RCE except for new Office Complex at Delhi for Rs.18.27 crore. It is pertinent to mention that the Commission in its order dated 26.4.2006 in Petition No. 3/2006 (filed by NTPC) had disallowed the expenditure towards creation of "Corporate office and other offices" of NTPC and the same was affirmed by the Appellate Tribunal for Electricity vide its judgment dated 30.8.2011 in Appeal No. 94 of 2006. Based on above, the Commission in its order dated 19.7.2019 in Petition No. 314/GT/2018 (tariff of Nathpa Jhakri Hydro generating station for the period 2014-19) filed by the Petitioner, had disallowed the additional capital expenditure for its Corporate office at Shimla. In this background, the claim of the Petitioner for Rs.18.27 crore towards expenditure on new Office complex in Delhi, has not been allowed. The admissibility of the additional capital expenditure claimed by the Petitioner and allowed for the period 2018-19, on prudence check of the justification furnished by the Petitioner are as under:

(Rs. in lakh)

Works/ Items	Amount claimed	Justification by the Petitioner	Admissibility	Amount allowed
Land	6.51	Land acquired before COD. However, payment made after COD due to certain formalities, claimed under Regulation 14(3)(v) of the 2014 Tariff Regulations.	The additional capital expenditure claimed by the Petitioner under this head is towards balance payment in respect of assets/works which have been approved by the Commission vide its order dated 26.6.2019 in Petition No. 315/GT/2018. Accordingly, the same are **allowed**	6.51
Civil/ hydraulic works	2056.15	Work executed. However certain payments made after COD as per payment terms, including claims decided by Arbitration Tribunal in favour of contractor, claimed under Regulation 14(3)(v) of the 2014 Tariff Regulations.		2056.15

Building/ roads	2225.55	Work executed. However certain payments made after COD as per payment terms, including claims decided by Arbitration Tribunal in favour of contractor, claimed under Regulation 14(3)(i & vii) of the 2014 Tariff Regulations.	The additional capital expenditure claimed by the Petitioner under this head is towards balance payment for assets/ works which have been approved by the Commission vide its order dated 26.6.2019 in Petition No.315/GT/2018. Accordingly, the same are **allowed except the amount of Rs.1827.92** lakh, claimed for new office complex at Delhi (refer paragraph 61 above).	397.63
Generating Plant & Machinery	963.95	Work executed. However certain payments made after COD as per payment terms, including claims decided by Arbitration Tribunal in favour of contractor and certain essential items under plant & machinery acquired after COD, claimed under Regulation 14(3) (v & vii) of the 2014 Tariff Regulations.	The additional capital expenditure claimed by the Petitioner under this head is towards balance payment for assets/works which have been approved by the Commission vide its order dated 26.6.2019 in Petition No. 315/GT/2018. Accordingly, the same are **allowed** in this petition.	963.95
Overhead lines/ electrical works	40.54	Procurement action made before COD. However, payment made after COD due to certain formalities, claimed under Regulation 14(3)(vii) of the 2014 Tariff Regulations.		40.54
Plant & Machinery	67.98	Certain essential items under plant & machinery acquired after COD, claimed under Regulation 14(3)(vii) of the 2014 Tariff Regulations.		67.98
Total Claimed	**5360.68**			
Total Allowed				**3532.76**

De-capitalization

62. Regulation 14(4) of the 2014 Tariff Regulations provides as under:

"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, duly taking into consideration the year in which it was capitalised."

63. The Petitioner has de-capitalized an amount of Rs.511.21 lakh in respect of assets/ works such as hydraulic works, buildings, gym, office equipment, vehicles, etc. for the year 2018-19 in Form 9 (B)(i). Since these assets are not in use, the de-capitalized amount of Rs. 511.21 lakh as claimed by the Petitioner for the year 2018-19 is allowed.

Exclusions

[capitalized in books but not to be claimed for tariff purpose as per reconciliation with books of account indicated in Form 9(C)]

64. The following year-wise net expenditure has been excluded from its claim by the Petitioner as per (Form 9C) reconciliation with books of account:

(Rs. in lakh)

	2017-18	**2018-19**
Exclusions (items not allowable / not claimed)	1992	(-) 1867

65. The above-mentioned exclusion of Rs.1992 lakh in 2017-18 as claimed by the Petitioner includes expenditure on additions capitalized in books but not to be claimed for the purpose of tariff. It is noticed that the said expenditure of Rs.1992 lakh includes an amount of Rs.1867 lakh towards liabilities and an amount of Rs.125 lakh towards spares for the year 2017-18 which were not allowed by the Commission vide its order dated 26.6.2019 in Petition No.315/GT/2018. Accordingly, the Petitioner has put these additions under exclusion category. As such, the above exclusion of positive entry of Rs. 125 lakh is allowed for the purpose of tariff. However, the deletion in respect of liabilities amounting to Rs. 1866.62 lakh has not been considered for the purpose of tariff.

66. In view of the above, the total additional capital expenditure allowed (excluding discharge of liabilities) for the year 2018-19 is Rs. 3532.76 lakh.

67. Accordingly, the balance limit available as on 31.3.2019 in respect of assets/

works within the original scope of work/ RCE considering the addition of an amount of Rs. 3532.76 lakh allowed at paragraph 61 above and discharge of liabilities allowed during the year 2018-19 works out to Rs. 3002.23 lakh [Rs.6184.63 lakh – (Rs.3532.76 lakh - Rs.350.36 lakh)].

68. Accordingly, considering the capital cost as on COD, admitted additional capital expenditure, de-capitalization and discharge of liabilities allowed in the preceding paragraphs, the capital cost for the period from COD of the generating station (16.12.2014) to 31.3.2019 is as under:

(Rs. in lakh)

	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
Opening Capital Cost	**339820.87**	**379671.56**	**395919.85**	**411811.68**	**405861.90**
Add: Addition during the year/ period	39850.69	4823.44	8233.50	3255.91	3532.76
Less: De-capitalization allowed	0.00	2503.34	194.64	7734.78	511.21
Add: Discharge of liabilities	0.00	13928.19	7852.97	(-)1470.91	(-)350.36
Less: LD proceeds received	0.00	12.16	20.11	8.56	110.24
Less: Insurance proceeds received	0.00	0.00	0.00	0.00	22.23
Closing capital cost	**379671.56**	**395907.69**	**411779.41**	**405821.07**	**408359.79**

Debt Equity Ratio

69. Regulation 19 of the 2014 Tariff Regulations provides as under:

"19. Debt-Equity Ratio: (1) For a project declared under commercial operation on or after 1.4.2014, the debt-equity ratio would be considered as 70:30 as on COD. 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 shall submit the resolution of the Board of the company or approval from Cabinet Committee on Economic Affairs

(CCEA) regarding infusion of fund from internal resources in support of the utilization made or proposed to be made to meet the capital expenditure of the generating station or the transmission system including communication system, as the case may be.

(3) In case of the generating station and the transmission system including communication system declared under commercial operation prior to 1.4.2014, debt-equity ratio allowed by the Commission for determination of tariff for the period ending 31.3.2014 shall be considered.

(4) In case of the generating station and the transmission system including communication system declared under commercial operation prior to 1.4.2014, but where debt: equity ratio has not been determined by the Commission for determination of tariff for the period ending 31.3.2014, the Commission shall approve the debt: equity ratio based on actual information provided by the generating company or the transmission licensee as the case may be.

(5) Any expenditure incurred or projected to be incurred on or after 1.4.2014 as may be admitted by the Commission as additional capital expenditure for determination of tariff, and renovation and modernization expenditure for life extension shall be serviced in the manner specified in clause (1) of this regulation.

70. The Petitioner had claimed debt equity ratio of 70:30 for calculation of normative debt and equity and the same has been allowed by the Commission vide its order dated 26.6.2019 in Petition No.315/GT/2018. As per Form-14, the debt-equity position as on COD of each unit of the generating station is as under:

(Rs. in lakh)

	13.5.2014	**(%)**	**18.6.2014**	**(%)**	**8.8.2014**	**(%)**	**16.12.2014**	**(%)**
Total loan	204148.34	58.50	200756.62	56.96	207034.42	57.92	207710.38	56.12
Equity	144806.00	41.50	151707.72	43.04	150401.92	42.08	162398.96	43.88
Total Fund	**348954.3**	**100.00**	**352464.3**	**100.00**	**357436.3**	**100.00**	**370109.3**	**100.00**

71. Based on the information furnished by the Petitioner as per Form 14 duly certified by Auditor, the normative debt equity ratio of 70:30 has been allowed.

Return on Equity

72. Regulation 24 of the 2014 Tariff Regulations provides as under:

"24. Return on Equity: (1) Return on equity shall be computed in rupee terms, on the equity base determined in accordance with regulation 19.
(2) Return on equity shall be computed at the base rate of 15.50% for thermal generating stations, transmission system including communication system and run of the 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:

i) *in case of projects commissioned on or after 1st April, 2014, an additional return of 0.50 % shall be allowed, if such projects are completed within the timeline specified in Appendix-I:*

ii) *the additional return of 0.5% shall not be admissible if the project is not completed within the timeline specified above for reasons whatsoever:*

iii) *additional RoE of 0.50% may be allowed if any element of the transmission project is completed within the specified timeline and it is certified by the Regional Power Committee/National Power Committee that commissioning of the particular element will benefit the system operation in the regional/national grid:*

iv) *the rate of return of a new project shall be reduced by 1% 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)/ Free Governor Mode Operation (FGMO), data telemetry, communication system up to load dispatch centre or protection system:*

v) *as and when any of the above requirements are found lacking in a generating station based on the report submitted by the respective RLDC, RoE shall be reduced by 1% for the period for which the deficiency continues:*

vi) *additional RoE shall not be admissible for transmission line having length of less than 50 kilometer."*

73. Regulation 25 of the 2014 Tariff Regulations provides as under:

"Tax on Return on Equity: (1) The base rate of return on equity as allowed by the Commission under Regulation 24 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 the 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 income on other income stream (i.e., income of non-generation or non-transmission business, as the case may be) shall not be considered 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

(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 2014-15 to 2018-19 on actual gross income of any financial year. However, penalty, if any, arising on account of delay in deposit or short deposit of tax amount shall not be claimed by the generating company or the transmission licensee as the case may be. Any under- recovery or over recovery of grossed up rate on return

on equity after truing up, shall be recovered or refunded to beneficiaries or the long term transmission customers/DICs as the case may be on year to year basis."

74. The grossing up of base rate has been done with actual MAT rate of the respective financial year. Accordingly, in line with the Regulations 24 and 25 of the 2014 Tariff Regulations, return on equity has been computed as under:

(Rs. in lakh)

	13.5.2014 to 17.6.2014	**18.6.2014 to 7.8.2014**	**8.8.2014 to 15.12.2014**	**16.12.2014 to 31.3.2015**	**2015-16**	**2016-17**	**2017-18**	**2018-19**
Opening Notional Equity	40037.40	60855.38	82267.19	101946.26	113901.47	118772.31	123533.82	121746.32
Addition due to Additional Capitalisation	0.00	0.00	0.00	11955.21	4870.84	4761.52	(-)1787.50	761.62
Closing Normative Equity	40037.40	60855.38	82267.19	113901.47	118772.31	123533.82	121746.32	122507.94
Average Equity	40037.40	60855.38	82267.19	107923.86	116336.89	121153.06	122640.07	122127.13
Return on Equity (Base Rate)	16.500%	16.500%	16.500%	16.500%	16.500%	16.500%	16.500%	16.500%
Tax rate for the year	20.9605%	20.9605%	20.9605%	20.9605%	21.3416%	21.3416%	21.3416%	21.5488%
Rate of Return on Equity (Pre Tax)	20.876%	20.876%	20.876%	20.876%	20.977%	20.977%	20.977%	21.032%
Return on Equity (Pro-rata)	**824.37**	**1775.10**	**6116.80**	**6543.01**	**24403.99**	**25414.28**	**25726.21**	**25685.78**

Interest on Loan

75. Regulation 26 of the 2014 Tariff Regulations provides as under:

"26. Interest on loan capital: (1) The loans arrived at in the manner indicated in regulation 19 shall be considered as gross normative loan for calculation of interest on loan.

(2) The normative loan outstanding as on 1.4.2014 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2014 from the gross normative loan.

(3) The repayment for each of the year of the tariff period 2014-19 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 up to the date of de-capitalization 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

(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 generating company or the transmission licensee, as the case may be, shall make every effort to re-finance the loan as long as it results in net savings on interest and in that event the costs associated with such refinancing shall be borne by the beneficiaries and the net savings shall be shared between the beneficiaries and the generating company or the transmission licensee, as the case may be, in the ratio of 2:1.

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

(9) In case of dispute, any of the parties may make an application in accordance with the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, as amended from time to time, including statutory re-enactment thereof for settlement of the dispute: Provided that the beneficiaries or the long term transmission customers /DICs shall not withhold any payment on account of the interest claimed by the generating company or the transmission licensee during the pendency of any dispute arising out of re-financing of loan."

76. The salient features of computation of interest on loan are as under:

a) The opening gross normative loan as on COD has been arrived at in accordance with Regulation 26 of the 2014 Tariff Regulations.

b) The weighted average rate of interest has been worked out on the basis of the actual loan portfolio of respective year applicable to the project.

c) The repayment for the year of the 2014-19 tariff period has been considered equal to the depreciation allowed for that year.

d) The interest on loan has been calculated on the normative average loan of the year by applying the weighted average rate of interest.

77. As regards the weighted average rate of interest (WARI) claimed by the Petitioner for calculation of the interest on normative loan, it is observed that the Petitioner has also included guarantee fees in the interest towards IBRD loan. However, the same is not allowed as per the aforesaid regulations. Accordingly, the WARI has been re-worked, based on interest on the loan portfolio, excluding the guarantee fees. Accordingly, WARI claimed by the Petitioner and allowed by the Commission is as under:

(Rs. in lakh)

	13.5.2014 to 17.6.2014	18.6.2014 to 7.8.2014	8.8.2014 to 15.12.2014	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
Claimed	2.82%	2.64%	3.22%	3.29%	3.72%	4.78%	4.72%	6.49%
Allowed	1.52%	1.34%	1.93%	2.04%	2.48%	3.26%	3.39%	5.08%

78. Interest on normative loan has been allowed as under:

(Rs. in lakh)

	13.5.2014 to 17.6.2014	18.6.2014 to 7.8.2014	8.8.2014 to 15.12.2014	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
Gross Notional Loan	93420.61	141995.88	191956.77	237874.61	265770.09	277135.38	288245.58	284074.75
Cumulative Repayment of Loan up to previous year	0.00	650.22	2055.94	6913.94	12117.96	31362.55	51435.20	71733.72
Net Opening Loan	93420.61	141345.66	189900.83	230960.67	253652.13	245772.84	236810.38	212341.03
Addition due to additional capitalization	0.00	0.00	0.00	27895.48	11365.29	11110.20	(-)4170.84	1777.10
Repayment of loan	650.22	1405.72	4857.99	5204.02	19244.58	20072.66	20298.52	20062.79
Net Closing Loan	92770.39	139939.94	185042.83	253652.13	245772.84	236810.38	212341.03	194055.34
Average Loan	93095.50	140642.80	187471.83	242306.40	249712.48	241291.61	224575.70	203198.18
Weighted Average Rate of Interest on Loan	1.52%	1.34%	1.93%	2.04%	2.48%	3.26%	3.39%	5.08%
Interest on Loan (pro-rata)	**139.76**	**262.59**	**1291.44**	**1435.23**	**6192.94**	**7874.47**	**7610.02**	**10313.44**

Depreciation

79. Regulation 27 of the 2014 Tariff Regulations provides as under:

"27. Depreciation:

(1) Depreciation shall be computed from the date of commercial operation of a generating station or unit thereof or a transmission system including communication system or element thereof. 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 or elements thereof.

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 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 in case of hydro generating station, the salvage value shall be as provided in the agreement signed by the developers with the State Government for development of the Plant:

Provided further that the capital cost of the assets of the hydro generating station for the purpose of computation of depreciated value shall correspond to the percentage of sale of electricity under long-term power purchase agreement at regulated tariff:

Provided also that any depreciation disallowed on account of lower availability of the generating station or generating unit or transmission system as the case may be, shall not be allowed to be recovered at a later stage during the useful life and 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-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 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 on1.4.2014 shall be worked out by deducting the cumulative depreciation as admitted by the Commission up to 31.3.2014 from the gross depreciable value of the assets.

(7) The generating company or the transmission license, as the case may be, shall submit the details of proposed capital expenditure during the fag end of the project (five years before the useful life) along with justification and proposed life extension. The Commission based on prudence check of such submissions shall approve the depreciation on capital expenditure during the fag end of the project.

(8) In case of de-capitalization of assets in respect of generating station or unit thereof or transmission system or element thereof, the cumulative depreciation shall be adjusted by taking into account the depreciation recovered in tariff by the de-capitalized asset during its useful services."

80. In line with the aforesaid regulations, depreciation has been calculated as under:

(Rs. in lakh)

	13.5.2014 to 17.6.2014	**18.6.2014 to 7.8.2014**	**8.8.2014 to 15.12.2014**	**16.12.2014 to 31.3.2015**	**2015-16**	**2016-17**	**2017-18**	**2018-19**
Opening Gross Block	133458.02	202851.26	274223.96	339820.87	379671.56	395907.69	411779.41	405821.07
Addition due to Projected Additional Capitalisation	0.00	0.00	0.00	39850.69	16236.13	15871.72	(-)5958.34	2538.72
Closing Gross Block	133458.02	202851.26	274223.96	379671.56	395907.69	411779.41	405821.07	408359.79
Average Gross Block	133458.02	202851.26	274223.96	359746.21	387789.62	403843.55	408800.24	407090.43
Value of Freehold Land included in Gross Block	1415.33	1887.11	2358.88	2830.66	2850.49	3543.23	3549.40	3549.40
Depreciation value including amortisation	118838.42	180867.74	244678.57	321224.00	346445.22	360270.28	364725.75	363186.92

of lease land in 25 years								
Remaining Depreciable value	118838.42	180217.52	242622.63	314310.06	334327.26	329104.80	313511.82	293011.98
No. of completed years	0.00	0.10	0.24	0.59	0.88	1.88	2.88	3.88
Balance useful life	35.00	34.90	34.76	34.41	34.12	33.12	32.12	31.12
Rate of Depreciation	4.94%	4.96%	4.97%	4.98%	4.96%	4.97%	4.97%	4.93%
Depreciation (Pro-rata)	**650.22**	**1405.72**	**4857.99**	**5204.02**	**19244.58**	**20072.66**	**20298.52**	**20062.79**
Cumulative Depreciation (before adjustment for de-capitalization)	650.22	2055.94	6913.94	12117.96	31362.55	51435.20	71733.72	91796.51
Less: Depreciation adjustment on account of de-capitalization	0.00	0.00	0.00	0.00	(-)197.06	(-)24.21	(-)1337.50	(-)112.82
Cumulative depreciation	650.22	2055.94	6913.94	12117.96	31165.48	51213.93	70174.95	90124.91

O&M Expenses

81. The Commission vide order dated 26.6.2019 in Petition No.315/GT/2018 has allowed the O&M expenses for the period 2014-19 as under:

(Rs. in lakh)

13.5.2014 to 17.6.2014	18.6.2014 to 7.8.2014	8.8.2014 to 15.12.2014	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
Units I,II,V	Units I,II,V,IV	Units I,II,V,IV,III	From Station COD				
465.01	878.36	2798.69	2738.41	10055.53	10723.22	11435.24	12194.54

82. The Petitioner has claimed the O&M expenses for the period 2014-19 in the instant truing-up petition as under:

(Rs. in lakh)

13.5.2014 to 17.6.2014	18.6.2014 to 7.8.2014	8.8.2014 to 15.12.2014	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
Units I,II,V	Units I,II,V,IV	Units I,II,V,IV,III	From Station COD				
525.48	992.57	3162.60	3094.48	10946.13	11672.96	12448.04	13274.59

83. The O&M expenses of the project for the period 2014-19 shall be governed by the Regulation 29(3)(b) of the 2014 Tariff Regulations, which state as under:

> "*In case of the hydro generating stations, which have not been in commercial operation for a period of three years as on 1.4.2014, operation and maintenance expenses shall be fixed at 2% of the original project cost (excluding cost of rehabilitation and resettlement*

works) for the first year of commercial operation. Further, in such case, operation and maintenance expenses in first year of commercial operation shall be escalated @6.04% per annum up to the year 2013- 14 and then averaged to arrive at the O&M expenses at 2013-14 price level. It shall be thereafter escalated @ 6.64%per annum to arrive at operation and maintenance expenses in respective year of the tariff period. "

84. The capital cost as on cut-off date of the generating station (31.3.2017) has been considered as Rs. 411811.68 lakh based on which the O&M expenses have been calculated as under:

(Rs. in lakh)

Capital Cost	411779.41
Less: R & R cost	8680.86
Capital Cost for the purpose of O & M	403098.55
O & M for the 1st year @2.5% for 6 units	10077.46

85. The O&M expenses from COD of units till the generating station COD is worked out based on the capital cost allowed as on COD of the units and unit wise pro-rata of Rehabilitation And Resettlement (R&R) cost as on cut-off date. For the first year of commercial operation after generating station COD, the O&M expenses has been worked out based on capital cost and R&R cost allowed as on cut-off date. Accordingly, the O&M expenses for the period 2014-19 have been allowed as under:

(Rs. in lakh)

13.5.2014 to 17.6.2014	18.6.2014 to 7.8.2014	8.8.2014 to 15.12.2014	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
318.37	688.37	2377.31	2926.61	10746.61	11460.18	12221.14	13032.62

Enhancement of O&M expenses

86. The Petitioner has also prayed to allow the revision of O&M charges, including the revised salary of employees w.e.f. 1.1.2017/1.1.2016 as and when it is finalized. The Respondent, UPPCL has submitted that while allowing revision of the normative O&M expenses considering the impact of pay revision, all elements of O&M expenses should be taken into consideration. The Respondent, MPPMCL has submitted that the Petitioner, despite the specific direction from the Commission vide its order dated 26.6.2019, had not

filed an appropriate application with regard to the pay/ salary revision. In view of the above, the Respondent has submitted that the Commission may disallow the claim of the Petitioner. The Petitioner vide its rejoinder affidavit dated 19.2.2020 has submitted that it has claimed O&M expenses on account of pay/ wage revision of its employees and Himachal Pradesh State Electricity Board (HPSEB) employees on deputation, DAV school staff and Central/ State Security forces deployed at the power stations due from 1.1.2017 and 1.1.2016 respectively. The Petitioner has also submitted that the pay/ wage revision of its employees and central security forces have been finalized. However, wage revision of HPSEB employees on deputation and DAV school staff have not been finalized yet and, therefore, the total financial implication on this count cannot be determined at this stage. Accordingly, the Petitioner sought liberty of the Commission to seek enhancement in O&M expenses for increase in salary from 1.1.2017/ 1.1.2016 on account of wage revision based on actual payments, whenever paid to employees.

87. As regards the enhancement of O&M expenses due to wage revision, the Commission vide order dated 26.6.2019 in Petition No. 315/GT/2018 had observed as under:

> *"As regards the prayer of Petitioner for enhancement of O&M expenses due to pay/salary revision, the same may be examined by the Commission, on a case to case basis, subject to the implementation of pay revision as per DPE guidelines and the filing of an appropriate application by the Petitioner in this regard."*

88. In view of the above, the Petitioner is granted further liberty to approach the Commission after finalisation of the pay revision along with all relevant details, which will be considered in accordance with law.

Interest on working capital

89. Sub-section (c) of Clause (1) of Regulation 28 of the 2014 Tariff Regulations provides as under:

"28. Interest on Working Capital:

(1) The working capital shall cover

(c) Hydro generating station including pumped storage hydroelectric generating Station and transmission system including communication system:

(i) Receivables equivalent to two months of fixed cost;

(ii) Maintenance spares @15% of operation and maintenance expense specified in regulation 29; and

(iii) Operation and maintenance expenses for one month."

90. Accordingly, receivables equivalent to two months of fixed cost are worked out and allowed as under:

(Rs. in lakh)

13.5.2014 to 17.6.2014	18.6.2014 to 7.8.2014	8.8.2014 to 15.12.2014	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
331.25	708.18	2509.54	2762.33	10388.17	11113.83	11294.26	11850.84

91. Maintenance spares @ 15% of O&M expenses are worked out and allowed as under:

(Rs. in lakh)

13.5.2014 to 17.6.2014	18.6.2014 to 7.8.2014	8.8.2014 to 15.12.2014	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
47.76	103.26	356.60	438.99	1611.99	1719.03	1833.17	1954.89

92. O&M expenses for one month are allowed as under:

(Rs. in lakh)

13.5.2014 to 17.6.2014	18.6.2014 to 7.8.2014	8.8.2014 to 15.12.2014	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
26.53	57.36	198.11	243.88	895.55	955.02	1018.43	1086.05

Rate of interest on working capital

93. Clause (3) of Regulation 28 of the 2014 Tariff Regulations provides as under:

"Interest on working Capital:

(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 2014-15 to 2018-19 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."

94. In terms of the above-mentioned Regulation, the Bank Rate of 13.50% (Base Rate +

350 Basis Points) as on 1.4.2014 has been considered by the Petitioner. This has been considered in the calculations for the purpose of tariff. Accordingly, Interest on working capital is allowed as under:

(Rs. in lakh)

	13.5.2014 to 17.6.2014	18.6.2014 to 7.8.2014	8.8.2014 to 15.12.2014	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
O&M expenses - 1 month	26.53	57.36	198.11	243.88	895.55	955.02	1018.43	1086.05
Maintenance spares	47.76	103.26	356.60	438.99	1611.99	1719.03	1833.17	1954.89
Receivables - 2 months	331.25	708.18	2509.54	2762.33	10388.17	11113.83	11294.26	11850.84
Total	**405.53**	**868.80**	**3064.24**	**3445.20**	**12895.72**	**13787.87**	**14145.86**	**14891.78**
Rate of Interest	13.50%	13.50%	13.50%	13.50%	13.50%	13.50%	13.50%	13.50%
Interest on Working Capital	**54.75**	**117.29**	**413.67**	**465.10**	**1740.92**	**1861.36**	**1909.69**	**2010.39**

Fixed Charges

95. Based on the above discussions, the fixed charges approved for the period from 13.5.2014 to 31.3.2019 of the generating station are as under:

(Rs. in lakh)

	13.5.2014 to 17.6.2014	18.6.2014 to 7.8.2014	8.8.2014 to 15.12.2014	16.12.2014 to 31.3.2015	2015-16	2016-17	2017-18	2018-19
Return on Equity	824.37	1775.10	6116.80	6543.01	24403.99	25414.28	25726.21	25685.78
Interest on Loan	139.76	262.59	1291.44	1435.23	6192.94	7874.47	7610.02	10313.44
Depreciation	650.22	1405.72	4857.99	5204.02	19244.58	20072.66	20298.52	20062.79
Interest on Working Capital	54.75	117.29	413.67	465.10	1740.92	1861.36	1909.69	2010.39
O&M Expenses	318.37	688.37	2377.31	2926.61	10746.61	11460.18	12221.14	13032.62
Total	**1987.47**	**4249.07**	**15057.22**	**16573.97**	**62329.05**	**66682.95**	**67765.58**	**71105.01**

Normative Annual Plant Availability Factor (NAPAF)

96. The Commission in its order dated 26.6.2019 in Petition No.315/GT/2018 had allowed NAPAF of the generating station as under:

"105. The matter has been examined. It is observed that the Commission vide order dated 27.1.2015 had approved NAPAF of 82% for the period 2014-16 as under:

"25. The Petitioner has claimed NAPAF of 77%, in consideration of the tandem operation of Nathpa Jhakri HEP with this generating station and the teething problems likely to be faced during initial years before stabilization of machines of the generating stations. NAPAF of 82% was allowed in respect of upstream Nathpa Jhakri hydro-electric project during the initial years before stabilization of machines and during the tariff period 2009-14. However, the same has been revised to 90% during the tariff period 2014-19, based on actual performance of the station during tariff period 2009-14. Thus, keeping in view the teething problems likely to be faced during initial years before stabilization of machines of this generating station, due to its tandem operation, as envisaged by the Petitioner, we allow NAPAF of 82% for a period of two years i.e. from 2014 to 2016. However, the NAPAF shall be reviewed after 2 years based on actual performance of the generating station, considering the fact that the Petitioner may not unduly earn any incentive, after teething problems are resolved."

106. Accordingly, in line with the above decision, NAPAF of 82% is allowed for the period 2014-16. However, for the period 2016-19, we allow the NAPAF of 90% considering the actual PAF for the said period."

97. The Petitioner has prayed that NAPAF of the generating station may be allowed as 85% as per the 2014 Tariff Regulations for the pondage type plants significantly affected by silt for the period 2016-19, as against NAPAF of 90% allowed by Commission vide its order dated 26.6.2019 in Petition No. 315/GT/2018.

98. The Respondent, PSPCL in its reply affidavit dated 27.7.2020 has submitted that the average NAPAF achieved by the generating station, despite the teething problems, has been in the range of 95.67% - 103.30%. It has also submitted that NAPAF is an important element in computation of capacity charges for a hydroelectric plant and Regulation 31 of the 2014 Tariff Regulations provides for an incentive to be paid to a hydroelectric plant for achieving NAPAF higher than the prescribed norms. It has further submitted that the Petitioner has sought revision of NAPAF to be fixed at 85%. However, the same has already been dealt by the Commission in its order dated 8.11.2019 in Petition No.18/RP/2019. It has further submitted that the Appellate Tribunal of Electricity (APTEL) vide its Judgment dated 4.12.2007 in Appeal No. 100/2007 (Karnataka Power Transmission Corporation Ltd. v. Karnataka Electricity Regulatory Commission & Ors),

had observed that the scope of a true-up petition is limited to adjustments made in the provisional financial results vis-a-vis the audited financial results and is not open to changing the methodology or principle decided by the Commission in previous orders. The aforesaid view has been reiterated by APTEL in its judgments dated 30.11.2015 in Appeal No.33/2015 (North Delhi Power Limited v. Delhi Electricity Regulatory Commission) and in State Load Despatch Centre, Gujarat v Gujarat State Electricity Regulatory Commission & anr, respectively. In view of the aforesaid judgments, no new methodology can be adopted by the Commission in truing-up petitions and the Commission has to undertake only the financial true up and cannot change the principle followed at the time of initial determination of tariff. It has also submitted that by allowing a lower NAPAF, the Respondent, PSPCL will be burdened with a huge liability in the form of undue incentive payments to the Petitioner, which would cause grave and irreparable financial injury to Respondent and to its consumers. In view of the same, it has submitted that the request of the Petitioner for re-fixation of NAPAF at 85% for the period 2014-2019 may be disallowed. The Respondent, UPPCL and the Respondent, MPPCL vide their affidavits dated 14.1.2020 and 3.2.2020 respectively have made similar submissions. The Petitioner in its rejoinder has clarified that the Commission while specifying the norms of operation in the 2014 Tariff Regulations had provided that NAPAF of 85% shall be applied for pondage type plants, where plant availability is significantly affected by silt. The Petitioner has also stated that the generating station is operating in tandem with upstream project NJHPS and in case of forced outage/ planned outage of NJHPS, where the units of this generating station are available for generation, the Declared Capacity/ PAF of downstream generating station would be reduced in spite of its machine availability, due to non-release of water by upstream NJHPS. The Petitioner has further submitted that the Commission in its order dated 26.6.2019 in Petition No.315/GT/2018 had allowed NAPAF of 90% for the period 2016-19, considering the actual PAF. However, the Commission in its order dated 16.5.2018 in Petition No. 150/MP/2016 had observed that NAPAF of this generating station needs to be lower by 1.96% in comparison to NAPAF of NJHPS so that the generating station does not suffer in terms of capacity charges/ incentives. According to the Petitioner, there is a difference in consideration of NAPAF of the generating station vide the Commission's order dated 26.6.2019 and order dated 16.5.2018. In view of the above, the Petitioner has submitted that NAPAF of 85% may be allowed for the period 2016-19 in terms of the 2014 Tariff Regulations.

99. It is noted that the Petitioner, being aggrieved by the Commission's order dated 26.6.2019 in Petition No. 315/GT/2018, had filed Review Petition (Petition No. 18/RP/2019) and sought revision of the NAPAF of the generating station as 85% as against the NAPAF of 90% allowed for the period 2016-19 by the said order. The relevant portion of the Commission's order dated 8.11.2019 is extracted hereunder:

> *12. It is pertinent to mention that the Petitioner had not relied upon the order dated 16.5.2018 in its submission in the main Petition (Petition No. 315/GT/2018) filed on 12.9.2018 or during the proceedings before the Commission in the said Petition. That being the case, we find no reason to entertain the submissions of the Petitioner for revision of NAPAF for 2016-19, in review, by placing reliance on the said order dated 16.5.2018. Even otherwise, the observations of the Commission in the said order dated 16.5.2018 that NAPAF needs to be lowered by 1.96% in comparison to NAPAF of NJHPS and that the gap of 8% which was considered reasonable to take care of tandem operation, were only in the context of fixation of NAPAF of 82% for the first two years (2014-16) for RHPS under the 2014 Tariff Regulations, in comparison to the NAPAF of 90% for NJHPS. These observations cannot, in our view, prevent the Commission from revising the NAPAF of RHPS on prudence check, based on the actual PAF for 2016-19, in terms of the Commission's order dated 27.1.2015 as quoted in para 8 above. As the NAPAF of 90% for the period 2016-19 allowed in order dated 26.6.2019, is based on the actual performance of the RHPS for the said period, the reliance placed by the Petitioner on Commission's order dated 16.5.2018 in Petition No. 150/MP/2016 for review of NAPAF is misconceived. Also, it is not the contention of the Petitioner that the NAPAF allowed for RHPS was not achievable or that there was shortfall in the recovery of capacity charges. In the above background, there is no error apparent on the face of the order dated 26.6.2019 and review on this ground is rejected.*

100. Considering the fact that the Commission by a conscious decision had rejected the prayer of the Petitioner for NAPAF of 85% for 2016-19 by order dated 8.11.2019 in

Review Petition No.18/RP/2019, we find no reason to reconsider the same, based on the submissions made by the Petitioner in this petition. Accordingly, in line with the Commission's order dated 26.6.2019 in the Petition No.315/GT/2018, NAPAF of 82% for the period 2014-16 and NAPAF of 90% for the period 2016-19 is allowed.

Design Energy

101. As regards Design Energy (DE), the Commission vide its order dated 26.6.2019 in Petition No.315/GT/2018 had observed as under:

> *"109 As regards Design Energy for the year 2014-15, the Commission vide order dated 27.1.2015 had allowed the Design Energy of 1417 MUs. Accordingly, the same is allowed for the year 2014-15. CEA vide letter no. 201/18/2014-HPA/3218 dated 3.7.2014 has approved annual Design Energy as 1878.08 MU. Accordingly, the same has been considered for the generating station as detailed under:*

Months	10 days monthly	Design Energy (MU)
April	1-10	27.26
	11-20	29.38
	21-30	31.97
May	1-10	55.73
	11-20	86.78
	21-31	100.30
June	1-10	68.34
	11-20	88.38
	21-30	64.39
July	1-10	77.21
	11-20	68.38
	21-31	96.17
August	1-10	98.47
	11-20	98.54
	21-31	107.41
September	1-10	98.35
	11-20	77.48
	21-30	58.40
October	1-10	46.21
	11-20	43.59
	21-31	44.19
November	1-10	38.54
	11-20	36.78
	21-30	34.00
December	1-10	31.85
	11-20	27.86
	21-31	30.09
January	1-10	25.86
	11-20	25.32

	21-31	27.46
February	1-10	22.04
	11-20	21.92
	21-29	18.09
March	1-10	22.35
	11-20	21.68
	21-31	27.31
Total		**1878.08**

102. Accordingly, the Design Energy of 1417 MU for 2014-15 and 1878.08 MU for each year of the period 2015-19, as approved by the Commission in order dated 26.6.2019 is allowed.

103. The difference between the fixed charges determined by this order and the fixed charges already recovered in terms of the Commission's order dated 26.6.2019 in Petition No. 315/GT/2018, shall be adjusted in terms of Regulation 8 of the 2014 Tariff Regulations.

104. Petition No. 29/GT/2020 is disposed of in terms of the above.

Sd/-	***Sd/-***	***Sd/-***
(Arun Goyal)	**(I.S Jha)**	**(P.K. Pujari)**
Member	**Member**	**Chairperson**