CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI

Petition No.22/RP/2021
in
Petition No. 29/GT/2020

Coram:

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

Date of Order: 25th May, 2022

IN THE MATTER OF

Review of Commission's order dated 4.6.2021 in Petition No.29/GT/2020 regarding revision of 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.

AND

IN THE MATTER OF

SJVN Limited,
SJVN Corporate Office Complex,
Shanan, Shimla – 171006,
Himachal Pradesh **…. Review 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. Uttrakhand 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 M.G. Ramachandran, Senior Advocate, SJVNL
Ms. AnushreeBardhan, Advocate, SJVNL
Shri Harish Kumar Sharma, SJVNL
Shri Aman Katoch, SJVNL
Shri Varun Dang, SJVNL
Shri Ravindra Khare, MPPMCL

ORDER

The Review Petitioner, SJVNL has filed this Review Petition against the Commission's order dated 4.6.2021 in Petition No.29/GT/2020 (in short 'the impugned order') whereby, the generation tariff of Rampur Hydro Power Station (412 MW) (hereinafter referred as ‘the Project/generating station’) for the period from actual COD of first Unit (i.e., 13.5.2014) to 31.3.2019 was revised, after the truing up exercise, in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as 'the 2014 Tariff Regulations').

2. Aggrieved by the impugned order dated 4.6.2021, the Petitioner has filed this Review Petition on the ground that there is error apparent on the face of the record on the following issues:

(i) Deduction of Guarantee Fees while Computing Weighted Average Rate of Interest;

(ii) Normative Interest During Construction (IDC) computed till SCOD and not upto Actual COD;

(iii) Normative IDC has been apportioned on pro rata basis as against the actual date of infusion of debt fund and debt equity ratio;

(iv) Error in computation of O&M Expenses;

(v) Refund of Insurance Premium and Liquidated Damages.

3. The Review Petition was admitted on the issues raised in paragraph 2 above, vide interim order dated 24.1.2022, and notice was served on the Respondents. The Respondent, MPPMCL and Respondent, UPPCL have filed their replies vide affidavit dated 13.1.2022 and 11.2.2022 respectively and the Review Petitioner has filed its rejoinders vide affidavit dated 1.2.2022 and 21.2.2022 respectively to the said reply of the Respondents.

Hearing dated 24.2.2022

4. The Review Petition was heard through virtual conferencing on 24.2.2022 and the Commission, after hearing the submissions of the learned Senior counsel for the Review Petitioner and the representative of the Respondent MPPMCL, reserved its

order in the matter. Based on the submissions of the parties and the documents available on record, we proceed to examine the issues raised by the Review Petitioner in the subsequent paragraphs.

A. Deduction of Guarantee Fees while computing the Weighted Average Rate of Interest

5. The Commission in paragraph 77 of the impugned order dated 4.6.2021 had computed the weighted average rate of interest for the purposes of computation of interest on loan for the period from 13.5.2014 to 31.3.2019 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%*

Submissions of the Review Petitioner, SJVNL

6. The Review Petitioner has submitted that the Commission has deductedthe guarantee fees payable by the Review Petitioner towards the International Bank for Reconstruction and Development (IBRD) Loan and has deviated from the earlier process adopted by the Commission in its order dated 26.6.2019 in Petition No. 315/GT/2018 (tariff of Rampur HEP for the 2014-19 tariff period) wherein, the guarantee fees were included in the interest on loan portfolio for computation of weighted average rate of interest. The Review Petitioner has submitted that in Petition No. 315/GT/2018, it had submitted all the requisite details for the purposes of computation of interest on loan component, including the loan agreement with IBRD Bank, duly audited details of guarantee fees, the cost to complete the Rampur Project totaling to Rs.4233.21 crores including the IDC, FC & ERV amounting to Rs.619.04 crores (which includes the guarantee fees payable on IBRD Loan) as duly vetted/approved by the Central Electricity Authority (CEA) vide letter dated 12.02.2015 etc. It has further submitted that

based on the above details, the Commission had included the Guarantee fees in the interest on loan portfolio, for computation of weighted average rate of interest in paragraph 83 of the order dated 26.6.2019 in Petition No. 315/GT/2018. The Review Petitioner has pointed out that it had placed on record, the details of the interest on loan (by taking into consideration of Guarantee fees) duly audited by the Chartered Accountant in Form 13 (reference page no. 79 of Petition No.29/GT/2020) for computation of weighted average rate of interest on actual loans. While submitting that the Commission has always taken into consideration the guarantee fees while determining the weighted average rate of interest while dealing with the financials of the generating station during the period 13.5.2014 to 31.3.2019, the Review Petitioner has submitted that guarantee fees is nothing but a cost of servicing of loan borrowed as per the methodology and scheme prevalent for grant of loan by many of the multilateral financial institutions. Accordingly, the Review Petitioner has submitted that it is therefore not appropriate for the Commission to deviate from the consistent methodology adopted while passing tariff order dated 26.6.2019 in Petition No. 29/GT/2020 for the period from 13.5.2014 to 31.3.2019. Referring to the judgments of the Appellate Tribunal for Electricity (in short 'Tribunal'), in KPTCL v KERC & ors (judgment dated 4.12.2007 in Appeal No.100/2007) and NDPL v DERC & ors (2007 ELR (APTEL) 193, the Review Petitioner has submitted that the Commission may not, at the stage of truing up, de novo, decide the issue already decided while passing the tariff order.

Reply of the Respondent, UPPCL

7. The Respondent, UPPCL has submitted that Regulation 26 of the 2014 Tariff Regulations does not provide for Guarantee fee to be included in the interest on loan for

purpose of calculation of interest on loan. It has also submitted that guarantee fee is paid to the Government and not to the bank in the form of interest and though, guarantee fee do constitute a part of capital cost, but not under the interest on loan. The Respondent has added that the Commission has calculated Weighted Average Rate of Interest (WAROI) in accordance with the Regulation 19 and Regulation 26 of the 2014 Tariff Regulations read with Section61 of Electricity Act, 2003 (the 'Act') and there is no de novo approach in the calculation of WAROI. Accordingly, the Respondent has submitted that there is no error apparent on the face of the record and the review on this count may be rejected.

Rejoinder of the Review Petitioner, SJVNL

8. In response, the Review Petitioner in its rejoinder has mainly reiterated the submissions made in the review petition.

Reply of the Respondent MPPMCL

9. The Respondent, MPPMCL has submitted that the contentions raised by the Review Petitioner under this head may be considered only after prudence check.

Analysis and Decision

10. We have examined the matter and the documents available on record. It is noticed that the Commission while computing the weighted average rate of interest on loan for the period from 13.5.2014 to 31.3.2019, had inadvertently not considered the Guarantee fees in the interest on loan portfolio submitted by the Petitioner in the original petition. This, according to us, is an error apparent on the face of the impugned order dated 4.6.2021 and the same is required to be rectified in this order considering the details furnished by the Review Petitioner. Accordingly, review on this ground is maintainable.

11. Issue (A) is decided accordingly.

B. <u>Normative Interest During Construction (IDC) computed till SCOD and not upto actual COD</u>

and

C. <u>Normative IDC has been apportioned on pro rata basis as against the actual date of infusion of debt fund and debt equity ratio</u>

12. The Commission, in paragraph 29 of the impugned order dated 4.6.2021 had allowed normative IDC upto the scheduled COD as under:

"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*

Submissions of the Review Petitioner, SJVNL

Normative Interest During Construction (IDC) computed till SCOD and not up to actual COD

13. The Review Petitioner has submitted that the Commission has erred in holding that as per the second proviso of Regulation 11(2) of the 2014 Tariff Regulations, the normative IDC is allowed only up to the SCOD. It has also submitted that a plain reading of the proviso to Regulation 11(2) clearly indicate that if there are additional

costs on account of IDC due to delay in achieving the SCOD, due to reasons beyond the control of the generating company, then such additional IDC may be allowed by the Commission subject to prudence check. The Review Petitioner has further submitted that the Commission, after having accepted that the time overrun of 34.43 months for completion of the project was for reasons beyond the control of the Petitioner, in order dated 26.6.2019 in Petition No. 315/GT/2018, ought to have allowed the IDC up to the COD of the project i.e. upto16.12.2014 and not restricted the IDC only up to SCOD. It has stated that the Commission is bound by its regulations in terms of the principles laid down by the Hon'ble Supreme Court in its judgment in PTC India Limited-v-CERC 2010 (4) SCC 603 and judgment dated 23.9.2013 of the Tribunal in Appeal No.52 of 2012 (M/s Ferro Alloys Corporation Limited -v-OERC) and judgment dated 1.3.2012 in Appeal No. 131 of 2011 (HPGCL V HERC). Accordingly, the Review petitioner has prayed that IDC up to the date of COD i.e. 16.12.2014 may be allowed in terms of Regulation 11(2) of the 2014 Tariff Regulations.

Normative IDC has been apportioned on pro rata basis as against the actual date of infusion of debt fund and debt equity ratio

14. The Review Petitioner has submitted that the Commission ought not to have apportioned the normative IDC computed as per paragraph 29 of the impugned order dated 4.6.2021 to the COD of the different units in proportion of unit wise capacity, when the actual details pertaining to debt- equity including normative loan as on each COD was submitted by the Petitioner in Petition No.315/GT/2018 and duly considered in order dated 26.6.2019, wherein normative IDC was rightly allowed till COD (16.12.2014).

Reply of the Respondent UPPCL

15. The Respondent, UPPCL has submitted that IDC is allowed by the Commission in accordance with Regulation 11 of the 2014 Tariff Regulations, wherein, Regulation 11(2) provides that in case delay is not attributable to the generating company and is due to uncontrollable factors, IDC may be allowed after due prudence check, provided IDC only on actual loan may be allowed beyond SCOD to the extent of delay, found beyond the control of the generating company. In other words, Regulation 11(2) states that in case delay is found beyond the control of the generating company and SCOD extended to the extent of delay, IDC shall be allowed up to the extended period on actual loan only, meaning, that IDC on normative loan may not be allowed for the extended period. The Respondent has accordingly submitted that there is neither any error apparent on the face of record nor there is any sufficient cause, requiring review of the issue raised by the Review Petitioner.

Rejoinder of the Review Petitioner, SJVNL

16. In response, the Review Petitioner in its rejoinder has mainly reiterated the submissions made in the review petition.

Reply of the Respondent MPPMCL

17. The Respondent, MPPMCL has submitted that the contentions raised by the Review Petitioner under this head may be considered only after prudence check.

Analysis and Decision

18. We have examined the matter. Regulation 11 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 up to 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.

19. Regulation 9(2)(b) of the 2014 Tariff Regulations provides for treatment of excess equity (i.e actual equity in excess of 30% of funds deployed) as normative loan. Thus, on a harmonious construction of Regulation 9(2) (b) read with the last proviso to Regulation 11(2) of the 2014 Tariff Regulations, it is evident that while normative IDC is allowable only up to Scheduled COD, it is only the IDC on actual loan, which is allowable beyond SCOD (up to actual COD) to the extent the delay is found beyond the control of the generating company. This view is also supported by the decision of the Commission in its order dated 28.10.2019 in Petition No.43/GT/2018 (tariff of Kishanganga HEP for the period from 18.5.2018 to 31.3.2019) and Order dated 6.1.2020 in Petition No.178/GT/2017 (tariff of Solapur STPS for the period from 25.9.2017 to 31.3.2019), wherein the Commission had restricted the normative IDC upto the scheduled COD. We, therefore, find no error apparent on the face of the impugned order dated 4.6.2021 and review on this count is not maintainable.

20. Since the normative IDC has been allowed only up to the Scheduled COD, as stated above, the normative IDC computed has been apportioned to the COD of the different units, in proportion to the unit-wise capacity. Hence, there is no error apparent

on the face of the impugned order on this count also. In our view, the Petitioner has sought to reopen the case on merits and the same is not permissible on review. Accordingly, the submissions of the Petitioner for review of impugned order dated 4.6.2021 stands rejected.

21. Issue (B) and Issue (C) are decided accordingly.

D. <u>Error in computation of O&M Expenses</u>

22. The Commission in paragraph 84 and paragraph 85 of the impugned order had computed O&M expenses as under:

> *"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:*

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 & 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*

Submissions of the Review Petitioner, SJVNL

23. The Review Petitioner has submitted that the Commission in paragraph 85 of the impugned order dated 4.6.2021 while computing the O&M expenses for the period from 13.5.2014 to 17.6.2014, 18.6.2014 to 7.8.2014 and from 8.8.2014 to 15.12.2014, has inadvertently considered the capital cost as on COD of the units, instead of considering the capital cost as on cut-off date of the units. It has also been submitted that though the Commission has considered the R&R cost for the above period as on the cut-off

date, but due to inadvertence, the capital cost has been considered as on the COD of the units. Accordingly, the Review Petitioner has submitted that based on the capital cost as on the cut-off date, the O&M expenses works out 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
Capital Cost as on cut-off date as approved by the Commission	411779.41	411779.41	411779.41	411779.41
R&R Cost (as on cut-off date)	8680.86	8680.86	8680.86	8680.86
Capital Cost for the purpose of O & M	403098.55	403098.55	403098.55	403098.55
O&M cost	496.97	938.72	2438.84	2926.61

Reply of the Respondent, UPPCL

24. The Respondent, UPPCL has submitted that the Commission has determined the O&M expense for the first year of commercial operation (COD 16.12.2014) based on cost of the project as on cut-off date, as indicated by the Petitioner, less the R&R cost in paragraphs 88 to 91 of the order dated 26.6.2019 in Petition No. 315/GT/2018. Based on the same principle, the unit-wise O&M has also been determined. The Respondent has also submitted that the Review Petitioner did not raise objection to the determination of O&M expenses after the order dated 26.6.2019. By the impugned order dated 4.6.2021, the Commission has followed the same methodology consistent with Regulation 29 (4)(d) of the 2014 Tariff Regulations. Accordingly, the Respondent has submitted that there is no error apparent on the face of the order, and review on this ground may be rejected.

Rejoinder of the Review Petitioner, SJVNL

25. In response, the Review Petitioner in its rejoinder has reiterated its submissions made in the Review Petition, as above. It has however, pointed out that the Commission ought to have followed the same methodology (as in order dated

26.6.2019 in Petition No.315/GT/2018), for computation of O&M expenses in the impugned order dated 4.6.2021.

Reply of the Respondent MPPMCL

26. The Respondent, MPPMCL has submitted that the contentions raised by the Review Petitioner under this head may be considered only after prudence check.

Analysis and Decision

27. We have examined the matter. It is evident from records that the Commission while determining the O & M expenses in order dated 26.6.2019 in Petition No. 315/GT/2018 had considered the projected capital cost and R & R cost as on the cut-off date of the generating station. However, while truing up the tariff of the generating station for the for the period from the COD of first three units (13.5.2014) till 31.3.2019 vide impugned order dated 4.6.2021, the Commission had worked out the O&M expenses for the period between COD of units to station COD inadvertently by considering the capital cost as on the COD of the units. Regulation 29(3)(d) of the 2014 Tariff Regulations provides as under:

> *"In case of the hydro generating stations declared under commercial operation on or after 1.4.2014, operation and maintenance expenses shall be fixed at 4% and 2.50% of the original project cost (excluding cost of rehabilitation & resettlement works) for first year of commercial operation for stations less than 200 MW projects and for stations more than 200 MW respectively and shall be subject to annual escalation of 6.64% per annum for the subsequent years.."*

28. Since the original project cost (i.e. capital expenditure as on the cut-off date) was available for the generating station, on actual basis, on truing-up in the impugned order dated 4.6.2021, the same should have been considered for computation of the O&M expenses instead of the capital cost as on the COD of the units. This, according to us, is an error apparent on the face of the record and the same is required to be rectified. The review on this ground is therefore maintainable. Accordingly, in line with the

methodology adopted in order dated 26.2.2019 in Petition No. 315/GT/2018, and based on the capital cost as on the cut-of date for Rs.403098.55 lakh (excluding R&R as allowed in paragraph 84 of order dated 4.6.2021) of the generating station, the O&M expenses as allowed in paragraph 85 of the impugned order dated 4.6.2021 is rectified as under:

(Rs in lakh)

O & M for the 1st year for 6 units @2.5% of cut-of date cost excluding R&R worked out as Rs. 10077.46 lakh (as per paragraph 84 of impugned order dated 4.6.2021	**13.5.2014 to 17.6.2014 (For 3 Units i.e. Unit-I, Unit-II & Unit-V)**	**18.6.2014 to 7.8.2014 (For 4 Units i.e. Unit-I, Unit-II, Unit-V & Unit-IV)**	**8.8.2014 to 15.12.2014 (For 5 Units i.e. Unit-I, Unit-II, Unit-V, Unit-IV & Unit-III)**	**16.12.2014 to 31.3.2015 (For all 6 Units i.e. from Station COD)**	**2015-16**	**2016-17**	**2017-18**	**2018-19**
Unit wise Pro-rata of above	5038.73	6718.31	8397.88	10077.46	Rs.10077.46 lakh is further escalated annually @ 6.64% per annum for the subsequent years			
Number of days	36	51	130	106				
O&M expenses allowed for the period	**496.97**	**938.72**	**2991.03**	**2926.61**	**10746.61**	**11460.18**	**12221.14**	**13032.62**

E. <u>Refund of Insurance Premium and Liquidated Damages</u>

Submissions of the Review Petitioner, SJVNL

Refund of Insurance Premium

29. The Review Petitioner has submitted that the Commission in paragraph 47 of the impugned order dated 4.6.2021 ought not to have deducted an amount of Rs.22.22 lakh received by the Petitioner towards refund of premium on account of reduction of sum insured of business interruption for the insurance coverage of the project (during the period 2015-16 to 2018-19); and an amount of Rs.23.06 lakh received as Liquidated Damages (LD) pertaining to purchases and O&M contracts (during the period 2018-19).The Review Petitioner has also submitted that the insurance amount of Rs.22.22 lakh has been received by it after commissioning of the units for the period with effect from 5.4.2014 to 4.4.2015. It has further submitted that as the amount of project insurance during the operation stage is booked under O&M expenses, for the

respective year after COD of units/ Station, the refund of premium, which is also the part of O&M expenses, should not be adjusted from the capital cost block. The Review Petitioner has stated that it had provided the details regarding refund of insurance vide affidavit dated 6.7.2020 and in the rejoinder filed on 17.2.2020 in Petition No. 29/GT/2020. Accordingly, the Review Petitioner has submitted that the Insurance amount of Rs.22.22 lakh which was a refund of the premium paid by the Review Petitioner though the normative O & M expenses, ought not to have been deducted from the capital cost block of the project in the impugned order dated 4.6.2021.

Liquidated Damages

30. The Review Petitioner has submitted that Liquidated Damages of Rs.23.06 lakh has been received by the Review Petitioner from the contractors hired by the project for the works related to O&M related activities and the same is booked under O&M expenses for 2018-19. It has also submitted that since the LD amount form part of the O&M expenses, the same should not have been adjusted from the capital cost block. The Review Petitioner has further submitted that it had furnished the details regarding LD vide affidavit dated 6.7.2020 and in its rejoinder filed on 17.2.2020 in Petition No. 29/GT/2020. Accordingly, the Review Petitioner has submitted that the Liquidated Damages amount of Rs.23.06 lakh, ought not to have been deducted from the capital cost block of the project in the impugned order dated 4.6.2021.

Reply of the Respondent, UPPCL

31. The Respondent, UPPCL has submitted that the Review Petitioner had not earlier submitted details or evidence to prove that the LD and Insurance premium amounts were pertaining to the O&M contracts. It has further submitted that the Review Petitioner, in the Review Petition, has also not furnished details of (i) O&M related

purchase or O&M contracts and (ii) O&M related insurance, and therefore, in the absence of the required information, the Review Petitioner failed to establish that the amount of 'LD and Insurance premium" deducted from the capital cost were actually concerned with O&M activities. Accordingly, the Respondent has submitted that the Commission had rightly deducted these amounts from the capital cost of the project and therefore, there is no error apparent on the face of the order, and review on this ground be rejected.

Rejoinder of the Review Petitioner, SJVNL

32. In response, the Review Petitioner in its rejoinder has reiterated the submissions made in the Review Petition, as above.

Reply of the Respondent MPPMCL

33. The Respondent, MPPMCL has submitted that the contentions raised by the Review Petitioner under this head may be considered only after prudence check.

Analysis and Decision

34. We have examined the matter. Regulation 3(42) of the 2014 Tariff Regulations provides as under:

> *"(42) Operation and Maintenance Expenses" or 'O&M expenses' means the expenditure incurred for operation and maintenance of the project, or part thereof, and includes the expenditure on manpower, repairs, maintenance spares, consumables, insurance and overheads but excludes fuel expenses and water charge"*

35. It is evident from the definition, that the expenditure incurred for O&M of the project also includes the expenditure on 'Insurance'. As pointed out by the Review Petitioner, the amount of project insurance during the operation stage is booked under O&M expenses for the respective year after COD of the units/generating station. It has been verified from the Petitioner's annual report/balance sheet extracts, that the claim

received from 'Insurance' has been booked under the head 'Other Income (Miscellaneous Income)'. As such, Insurance premium amount which form part of the O&M expenses, Rs.22.22 lakh received by the Petitioner towards refund of premium should not have been deducted from the capital cost. Similarly, it is noticed that the LD amount of Rs.23.06 lakh has been received by the Review Petitioner from the contractors for O&M related activities and the same was booked under O&M expenses for 2018-19. Thus, the LD amount received, was not part of the capital cost, and has been booked under 'Other Income'. These aspects, including the affidavits/rejoinder filed by the Review Petitioner in Petition No.29/GT/2020 had inadvertently escaped the attention of the Commission, while passing the impugned order dated 4.6.2021. This, according to us, is an error apparent on the face of the record and review on this ground is maintainable.

36. Issue (E) is decided accordingly.

37. In addition to the above, certain calculation errors with regard to adjustments in cumulative depreciation and cumulative repayment due to de-capitalization which were noticed have been *suo-motu* rectified by this order.

Revision of tariff for the 2014-19 tariff period

38. As stated above, the Review Petition has been allowed only on the ground of (i) deduction of guarantee fees while computing WAROI and (ii) Refund of Insurance premium and LD. Based on this, and after rectification of the errors with regard to adjustments in cumulative depreciation and cumulative repayment due to de-capitalization, the tariff determined for this generating station for the period from actual COD of first Unit (i.e. 13.5.2014) to 31.3.2019 vide order dated 4.6.2021 in Petition No.29/GT/2020, shall stand revised, as stated in the subsequent paragraphs.

Capital Cost

39. The capital cost as allowed in the table under paragraph 68 of the order dated 4.6.2021 is revised 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	395907.69	411779.41	405821.07
Add: Addition during the year/period	39850.69	4823.44	8233.50	3255.91	3532.76
Less: De-capitalization allowed	-	2503.34	194.64	7734.78	511.21
Add: Discharge of Liabilities	-	13928.19	7852.97	(-)1470.91	(-)350.36
Less: LD proceeds received	-	12.16	20.11	8.56	87.18
Less: Insurance proceeds received	-	0.00	0.00	0.00	0.00
Closing capital cost	**379671.56**	**395907.69**	**411779.41**	**405821.07**	**408405.07**

Return on Equity

40. Return on Equity as allowed vide paragraph 74 of the order dated 4.6.2021 in is revised as follows:

(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
Notional Equity-Opening (A)	40037.40	60855.38	82267.19	101946.26	113901.47	118772.31	123533.82	121746.32
Addition of Equity due to additional capital expenditure (B)	0.00	0.00	0.00	11955.21	4870.84	4761.52	(-) 1787.50	775.20
Normative Equity- Closing (C) = [(A)+(B)]	40037.40	60855.38	82267.19	113901.47	118772.31	123533.82	121746.32	122521.52
Average Normative Equity (D) = [(A+C)/2]	40037.40	60855.38	82267.19	107923.86	116336.89	121153.06	122640.07	122133.92
Return on Equity (Base Rate) (E)	16.500%	16.500%	16.500%	16.500%	16.500%	16.500%	16.500%	16.500%
Effective Tax Rate for the	20.961%	20.961%	20.961%	20.961%	21.342%	21.342%	21.342%	21.549%

year (F)								
Rate of Return on Equity (Pre-Tax) (G)=[(E)/(1-F])	20.876%	20.876%	20.876%	20.876%	20.977%	20.977%	20.977%	21.032%
Return on Equity (H) = [(D)*(G)]	**824.37**	**1775.10**	**6116.80**	**6543.01**	**24403.99**	**25414.28**	**25726.21**	**25687.21**

Rate of Interest

41. The rate of interest on loan claimed and allowed vide paragraph 77 of the order dated 4.6.2021 is rectified 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	2.82%	2.64%	3.22%	3.29%	3.72%	4.78%	4.72%	6.49%

Interest on Normative Loan

42. Consequent upon the above, the Interest on normative loan allowed vide paragraph 78 of the order dated 4.6.2021, stands modified 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 Normative Loan (A)	93420.61	141995.88	191956.77	237874.61	265770.09	277135.38	288245.58	284074.75
Cumulative repayment of loan up to previous year (B)	0.00	650.22	2055.94	6913.94	12117.96	31165.48	51213.93	70174.95
Net Loan Opening (C)=[(A)-(B)]	93420.61	141345.66	189900.83	230960.67	253652.13	245969.90	237031.65	213899.80
Repayment during the year (D)=Depreciation	650.22	1405.72	4857.99	5204.02	19244.58	20072.66	20298.52	20063.90
Cumulative repayment adjustment on account of de-capitalization (E)	0.00	0.00	0.00	0.00	197.06	24.21	1337.50	112.81
Net Repayment (F)=[(D)-(E)]	650.22	1405.72	4857.99	5204.02	19047.52	20048.45	18961.01	19951.09

Addition due to additional capital expenditure (G)	0.00	0.00	0.00	27895.48	11365.29	11110.20	(-) 4170.84	1808.80
Net Loan Closing (H)= (C+G-F)	92770.39	139939.94	185042.83	253652.13	245969.90	237031.65	213899.80	195757.51
Average Loan (I)= [(C+H)/2]	93095.50	140642.80	187471.83	242306.40	249811.01	241500.77	225465.73	204828.66
Weighted Average Rate of Interest of loan (J)	2.82%	2.64%	3.22%	3.29%	3.72%	4.78%	4.72%	6.49%
Interest on Loan (K)=(I*J)	**258.74**	**519.65**	**2148.32**	**2315.70**	**9301.80**	**11537.81**	**10644.99**	**13301.02**

Depreciation

43. Deprecation allowed vide paragraph 80 of the order dated 4.6.2021 is revised 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 (A)	133458.02	202851.26	274223.96	339820.87	379671.56	395907.69	411779.41	405821.07
Net Additional capital expenditure during 2014-19 (B)	0.00	0.00	0.00	39850.69	16236.13	15871.72	-5958.34	2584.00
Closing gross block (C)=(A+B)	133458.02	202851.26	274223.96	379671.56	395907.69	411779.41	405821.07	408405.07
Average gross block (D)=[(A+C)/2]	133458.02	202851.26	274223.96	359746.21	387789.62	403843.55	408800.24	407113.07
Value of Freehold Land	1415.33	1887.11	2358.88	2830.66	2850.49	3543.23	3549.40	3549.40
Depreciable Value (E)= [(D)-(Value of Freehold land)*90%]	118838.42	180867.74	244678.57	321224.00	346445.22	360270.28	364725.75	363207.30
Remaining Depreciable Value at the beginning of the year (F)=[(E) – (Cum Dep at 'L' at the end of previous year)]	118838.42	180217.52	242622.63	314310.06	334327.26	329104.80	313511.82	293032.36
Rate of Depreciation (G)	4.940%	4.960%	4.974%	4.981%	4.963%	4.970%	4.965%	4.928%
Balance useful Life (H)	35.00	35.00	35.00	35.00	34.71	33.71	32.71	31.71
Depreciation (I)=(D*G)	650.22	1405.72	4857.99	5204.02	19244.58	20072.66	20298.52	20063.90
Cumulative Depreciation at the	650.22	2055.94	6913.94	12117.96	31362.55	51238.14	71512.45	90238.85

end of the year (J)= [(I)+ (Cum Dep at 'L' at the end of previous year)]								
Less: Depreciation adjustment on account of de-capitalization (K)	0.00	0.00	0.00	0.00	197.06	24.21	1337.50	112.81
Cumulative Depreciation at the end of the year (L)	650.22	2055.94	6913.94	12117.96	31165.48	51213.93	70174.95	90126.04

O&M Expenses

44. As stated in paragraph 28 above, the O&M expenses allowed in paragraph 85 of the order dated 4.6.2021 is revised 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
496.97	938.72	2991.03	2926.61	10746.61	11460.18	12221.14	13032.62

Interest on Working Capital

45. Interest on Working Capital allowed vide paragraph 94 of the order dated 4.6.2021 is revised 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
Maintenance Spares	74.55	140.81	448.65	438.99	1611.99	1719.03	1833.17	1954.89
O&M expenses (1 month)	41.41	78.23	249.25	243.88	895.55	955.02	1018.43	1086.05
Receivables	382.94	796.04	2763.57	2912.45	10918.24	11738.43	11811.73	12360.66
Total	498.90	1015.07	3461.48	3595.33	13425.78	14412.48	14663.33	15401.61
Rate of Interest	13.50%	13.50%	13.50%	13.50%	13.50%	13.50%	13.50%	13.50%
Interest on working capital	67.35	137.04	467.30	485.37	1812.48	1945.68	1979.55	2079.22

Fixed Charges

46. Based on the above, the fixed charges approved vide paragraph 95 of the order dated 4.6.2021 stand revised 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
Depreciation	650.22	1405.72	4857.99	5204.02	19244.58	20072.66	20298.52	20063.90
Interest on Loan	258.74	519.65	2148.32	2315.70	9301.80	11537.81	10644.99	13301.02
Return on Equity	824.37	1775.10	6116.80	6543.01	24403.99	25414.28	25726.21	25687.21
Interest on Working Capital	67.35	137.04	467.30	485.37	1812.48	1945.68	1979.55	2079.22
O&M Expenses	496.97	938.72	2991.03	2926.61	10746.61	11460.18	12221.14	13032.62
Total	2297.66	4776.24	16581.44	17474.71	65509.46	70430.61	70870.40	74163.97

47. The difference between the tariff determined by this order and the tariff recovered by the Review Petitioner in terms of the order dated 4.6.2021 in Petition No. 29/GT/2020 shall be adjusted in terms of Regulation 8(13) of the 2014 Tariff Regulations.

48. Review Petition No. 22/RP/2021 is disposed of in terms of the above.

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