

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 68 of 2022
(Suo-Motu)
Date of Order: 12.07.2023

Petition No. 68 of 2022 (Suo Motu) for determination of Annual Fixed Cost for True-up of FY 2020-21 and FY 2021-22 for GVK Power (Goindwal Sahib) Limited 2x270 MW (540 MW) coal based thermal power station at Goindwal Sahib in the State of Punjab.

And

In the matter of: Commission on its own motion.

Versus.

1. GVK Power (Goindwal Sahib) Limited Plot No.10, Paigah House, SardarPatel Road, Secunderabad- 50003.
2. Punjab State Power Corporation Limited, Shed No. F-4, Shakti Vihar Patiala-147001.

Commission: Sh. Viswajeet Khanna, Chairperson
Sh. Paramjeet Singh, Member

GVK: Sh. Janmali Manikala, Advocate

PSPCL: Ms. Astha Jain, Advocate on behalf of Ms. Suparna Srivasta, Advocate

ORDER

1.0 While disposing petition No. 29 of 2021 filed by GVK Power (Goindwal Sahib) Limited (GVK), the Commission observed vide Order dated 23.08.2022 that GVK was directed to file True-Up petition for FY 2020-21, which it has failed to file in spite of repeated directions of the Commission during various hearings in petition No. 29 of 2021. Taking Suo-Motu notice of the matter, the Commission initiated the process of determination of Annual Fixed Cost for True-Up for FY 2020-21 and 2021-22 and directed GVK to furnish the information as mentioned in the

Order within two weeks. GVK failed to furnish the requisite information within the stipulated period. The petition was taken on record as petition No. 68 of 2022 (Suo-Motu). Vide notice bearing No. 2249-2250 dated 07.11.2022, GVK was directed to furnish the information as mentioned in the notice within two weeks and to further submit any other information/written submissions well before the date of hearing. GVK submitted the information vide e-mail dated 21.11.2022. The information submitted by GVK was found deficient and vide order dated 02.12.2022, GVK was directed to submit the information as mentioned in the order. In compliance of the order dated 02.11.2022, GVK submitted the information vide affidavit dated 13.12.2022 through Sh. Ravi Sethia, Resolution Professional of GVK Power Ltd . PSPCL filed its reply to the petition vide memo No. 5145 dated 19.01.2023. GVK filed rejoinder dated 16.02.2023 to the reply filed by PSPCL. GVK filed application for Annual Performance Review for FY 2022-23 for its project and it was intimated vide letter dated 27.03.2023 that the APR petition for FY 2022-23 is required to be filed alongwith petition for ARR of FY 2023-24, therefore, the petition for APR FY 2022-23 may be taken up accordingly.

- 2.0 As the petition involved public interest a Public notice was issued in various newspapers inviting objections/suggestions from the stakeholders. The petition was taken up for hearing as well as public hearing on 11.05.2023 however nobody appeared from the public in the public hearing. GVK was directed to file an affidavit as to whether any penal interest has been paid to the banks for FY 2020-21 and FY 2021-22. GVK filed affidavit dated 24.05.2023 in compliance of the Order of the Commission.

3.0 The Commission has examined the submissions of the parties as well as the documents adduced on the record and after hearing the parties decides as under:

Capital Expenditure

GVK's Submission

3.1 GVK vide its submission date 21.11.2022 submitted that Regulation 17 of the PSERC Tariff Regulations deals with Capital Cost and provides that the capital cost of the generating station as determined by this Commission would form the basis for determination of tariff. Further, Regulation 18 provides that capital expenditure incurred after the COD and upto the cut-off date mentioned in the PSERC Tariff Regulations 2019 shall be admitted by this Commission after prudence check. GVK stated that it has not incurred any capital expenditure for FY 2020-21 and FY 2021-22.

Commission Analysis

3.2 The Commission considers the capital expenditure as Nil for FY 2020-21 and FY 2021-22.

Thus, the Commission considers the capital expenditure and capitalization for FY 2020-21 and FY 2021-22 as Nil.

4.0 Operation and Maintenance Expenses

4.1 GVK vide its submission date 21.11.2022 submitted that Regulation 26 of the PSERC Tariff Regulations,2019 provides for the Operation & Maintenance.

4.2 GVK submits that it has incurred an amount of Rs. 14.36 Crore and Rs.12.35 Crore towards the employee cost for the FY 2020-21 and FY 2021-22 respectively, detailed as under:

Table No.1: Employee Expense for FY 2020-21 and FY 2021-22 submitted by GVK (Rs. Crore)

Sr.No	Head	FY 2020-21	FY 2021-22
1	Other Employee Cost	13.40	11.56
2	Terminal Benefits	0.96	0.79
3	Total	14.36	12.35

4.3 GVK is claiming an increase of Rs. 0.75 Crore in the Employee Expenses for FY 2020-21. GVK submits that a competent salary hike is necessary for retention of employees. GVK submits that a competent salary hike is necessary for retention of employees. Further, Note-6 to Regulation 26 of PSERC Tariff Regulations 2019 provides that the employee cost on account of pay revision etc. would be considered separately by this Commission. GVK prayed to approve the Employee Expenses claimed above.

4.4 GVK submitted the A&G and R&M Expenses for the FY 2020-21 are as follows:

Table No.2:A&G and R&M Expenses for FY 2020-21 and FY 2021-22 submitted by GVK (Rs. Crore)

Sr.No	Particular	FY 2020-21	FY 2021-22
1	A&G Expenses	36.74	36.62
2	R&M Expenses	26.78	30.52
3	Total	63.52	67.14

4.5 GVK submitted that the revised escalation factor has been calculated based on actual expenditure incurred for FY 2021-22. GVK further submitted that the increase in A&G and R&M Expenses are on account of Legal and professional fee, Ash Handling charges, water charges, rates and taxes, coal testing charges etc. Further, the increase in Employment Expenses is on account of contract labour engaged by it.

- 4.6 GVK prayed to approve the total O&M Expenses for FY 2020-21 and FY 2021-22 as Rs. 77.88 Crore and Rs.79.49 Crore respectively.

PSPCL's submission

- 4.7 PSPCL vide its submission dated 19.01.2023 stated that GVK has claimed O&M expenses to the extent of Rs.63.52 Crore as against Rs.52.2 Crore and Rs.79.49 Crore as against Rs.67.49 Crore for FY 2020-21 and FY 2021-22 respectively, as approved by the Commission in its Order dated 26.10.2021. The Petitioner has also claimed a sum of Rs.14.36 Crore as against Rs.13.61 Crore and Rs.12.35 Crore as Employee Expenses for FY 2020-21 and FY 2021-22 respectively, relying upon Note 6 of Regulation 26 of the PSERC Tariff Regulations, 2019. In the present Petition, the Petitioner has submitted that it has incurred an amount of Rs.14.36 Crore and Rs. 12.35 Crore as employee expenses on account of competent salary hikes which were necessary for retention of employees. On the other hand, increase in R&M expenses and A&G expenses has been stated to have been on account of legal and professional fee, ash handling charges, water charges, taxes, coal testing charges etc. PSPCL stated that as per Note-6 of Regulation 26 of the PSERC Tariff Regulations, 2019, an exceptional increase in employee cost on account of Pay Commission based revision for State PSU/ government employees could be considered separately by this Commission. However, the Petitioners claim for increase in employee cost has not been, and neither could have been, on account of pay commission revision, but has rather been on its own volition to give 'competent salary hike' which is impressible to be allowed as a pass through in tariff. Further, the reasoning provided by the Petitioner for the increase in R&M & A&G expenses is absolutely vague and without any details whatsoever. PSPCL further submitted that

it had paid water charges separately, in addition to capacity charges & energy charges, amounting to Rs. 99,15,021/- during payment of tariff bill of July, 2020 as demanded by the Petitioner in the said bill. Under the said water charges, Rs. 60,00,978/- (Rs. 0.60 Crore) pertained to the period FY 2018-19 and Rs. 39,14,043 (Rs. 0.39 Crore) pertained to the period FY 2019-20. It is therefore submitted that if the Petitioner wishes to retain its employees by granting competent hikes or wishes to incur R&M expenses over and above the normative figures approved by this Commission in its Order dated 26.10.2021, the same are liable to be borne by the Petitioner itself and cannot be allowed to be pass through in tariff as an unnecessary burden on the consumers.

Commission's analysis

O&M Expenses

- 4.8 The O&M expenses are to be given as per the Regulation 26 of the PSERC MYT Regulations, 2019. The Regulation has been reproduced as under:

“26.1. The O&M expenses for the nth year of the Control Period shall be approved based on the formula shown below:

$$O\&M_n = (R\&M_n + EMP_n + A\&G_n) \times (1 - X_n)$$

Where,

R&M_n – Repair and Maintenance Costs of the Applicant for the nth year;

EMP_n – Employee Cost of the Applicant for the nth year;

A&G_n – Administrative and General Costs of the Applicant for the nth year;

X_n – Is an efficiency factor for the nth year.

It should be ensured that all such expenses capitalized should not form a part of the O&M expenses being specified here.”

Employee Expenses

4.9 As per Regulation 26.1 of PSERC MYT Regulations 2019, the Employee Cost and A&G cost for nth year is determined as follows:

$$(ii) EMP_n + A\&G_n = (EMP_{(n-1)} + A\&G_{(n-1)}) * (INDEX_n / INDEX_{n-1})$$

INDEX_n – Inflation factor to be used for indexing the employee cost and Administrative and General Cost for nth year. This will be the Combination of Consumer Price Index(CPI) and the Whole Sale Price Index (WPI) of nth year and shall be calculated as under:

$$INDEX_n = 0.50 * CPI_n + 0.50 * WPI_n$$

WPI_n means the average rate (on monthly basis) of Wholesale Price Index (all commodities) over the year for the nth year.”

CPI_n means the average rate (on monthly basis) of Consumer Price Index (industrial workers) over the year for the nth year.”

4.10 GVK has claimed employee cost of Rs.14.36 Crore and Rs.12.35 Crore for FY 2020-21 and FY 2021-22 respectively. The employee cost has been considered in two parts -Terminal benefits and other employee cost.

4.11 The Terminal benefits are to be determined as per Regulation-26 of PSERC MYT Regulations, 2019 (as amended from time to time). Relevant note under Regulation 26 of MYT Regulations, 2019 is reproduced hereunder for reference:

“Note 4: Terminal Liabilities such as death-cum-retirement gratuity, Ex-Gratia, pension including family pension, commuted pension, leave encashment, LTC, medical reimbursement including fixed medical allowance in respect of the State PSU / Government pensioners will be approved as per the actuals paid by the Applicant.”

4.12 GVK has claimed terminal benefits of Rs.0.96 Crore and Rs.0.79 Crore for FY 2020-21 and FY 2021-22 respectively. The Commission observes that above note 4 is applicable only for state PSU/government pensioners and there are no separate regulations for determination of

terminal benefits for private generating companies. However, the Commission considers terminal liabilities as submitted by GVK and allows as per actuals for FY 2020-21 and FY 2021-22 as under:

Table No. 3: Terminal benefits allowed by the Commission (Rs. Crore)

Sr.No	Particulars	FY 2020-21	FY 2021-22
1	Terminal benefits	0.96	0.79

- 4.13 Regulation 8.1 of PSERC MYT Regulations, 2019 specifies that baseline values for the Control Period shall be determined by the Commission and the projections for the Control Period shall be based on these figures. The relevant regulations are reproduced below:

8.1. Baseline Values

“..... (b) The baseline values shall be inter-alia based on figures approved by the Commission in the past, last three years’ Audited/Provisional Accounts, estimate of the expected figures for the relevant year, industry benchmarks/norms and other factors considered appropriate by the Commission:

Provided further that the Commission may change the values for Base Year and consequently the trajectory of parameters for the Control Period, considering the actual figures from audited accounts.”

- 4.14 GVK has claimed employee cost other than terminal benefits as Rs. 13.40 Crore and Rs.11.56 Crore for FY 2020-21 and FY2021-22 respectively as per annual audited accounts.
- 4.15 GVK in Petition no.14 of 2020 had projected an increase of 20-25% in the other employee cost over the 1st Control Period whereas the employee strength from FY 2018-19 to FY 2019-20 remained constant indicating that the increase of 20-25% was overstated. The Commission after prudence check had allowed other employee cost of Rs.12.50 Crore for FY 2020-21 considering a reasonable increase in employee cost viz a viz employee strength.

- 4.16 GVK has submitted the details of employee strength for FY 2020-21 and FY 2021-22 as under:

Table No 4:Employee strength(working) of GVK for FY 2020-21 and FY 2021-22

Sr.no	Particulars	FY 2020-21	FY 2021-22
1	Technical	101	101
2	Non Technical	27	27
3	Total	128	128

The Commission notes that GVK has not given class wise details of Technical and Non-Technical staff working in the plant. Further, it is also observed that there is no increase in employee strength from FY 2018-19 onwards.

- 4.17 Other employee cost of GVK as per annual audited accounts for FY 2020-21 and FY 2021-22 was Rs.13.40 Crore and Rs.11.56 Crore respectively. The Commission observes that the other employee cost in FY 2019-20 was Rs.14.07 Crore as per annual audited accounts, therefore other employee cost indicates a down ward trend in-spite of the fact that there is escalation in WPI and CPI indices during these years and the employee strength had not decreased but remained the same i.e 128 employees(101+27). Moreover this is in contrast to what GVK had projected in Petition no.14 of 2020.
- 4.18 GVK has not given any justification/explanation for this downward trend in other employee cost, therefore, the Commission , does not consider it prudent to allow the said other employee cost of Rs.12.50 Crore for FY 2020-21 as allowed in Petition 14 of 2020.

In view of the above facts and Regulation 8.1 quoted in para 4.13 ,the Commission changes the value for base year considering the decreasing figures in the annual audited accounts and allows Rs 10.50 Crore as other employee cost for FY 2020-21 .

4.19 The Wholesale Price Index (WPI) and Consumer Price Index (CPI) FY2021-22 have been taken for working out increase/decrease in WPI and CPI as given below:

Table No. 5 : Computation of Escalation Index for FY 2021-22

Particular	FY 2020-21	FY 2021-22	Increase/decrease
CPI Index	338.69	356.06	5.1285%
WPI Index	123.375	139.41	12.9956%

$$INDEX\ n/INDEX\ n-1 = (0.5*5.1285) + (0.5*12.9956) = 9.062066\%$$

4.20 Accordingly, employee cost for FY 2020-21 and FY 2021-22 is determined as under:

Table No.6: Employee Cost allowed by the Commission for FY 2020-21 and FY 2021-22 (Rs. Crore)

Sr.No	Particulars	FY 2020-21	FY 2021-22
1	Other Employee baseline	10.50	10.50
2	WPI & CPI escalation	-	9.062066%
3	Other Employee cost	10.50	11.45
4	Terminal benefits	0.96	0.79
5	Total Employee Cost	11.46	12.24

Administrative and General Expenses (A&G)

4.21 As per MYT Regulation 2019, Administrative & General expenses and Repair & Maintenance expenses are to be determined separately for 2nd Control Period. GVK claimed A&G expenses as Rs.36.74 Crore and Rs.36.62 Crore as per annual audited accounts for FY 2020-21 and FY 2021-22 respectively.

4.22 The Commission had allowed A&G expenses for FY 2020-21 in Petition no.14 of 2020 (2nd MYT Control Period) as under:

**Table No.7: A&G expenses allowed by the Commission for FY 2020-21
(Rs. Crore)**

Sr. No	Particular	Amount
1	A&G expenses	22.69
2	Add: Fuel & Power(provisional)	9.26
3	Add: Audit and Fee*(provisional)	0.11
4	Total A&G Expenses	32.06

4.23 The Commission considers actual power & fuel charges for FY 2020-21 and FY 2021-22 which are Rs. 8.72 Crore and Rs. 6.45 Crore respectively, as per annual audited accounts. Similarly, Audit and ARR fee for FY 2020-21 and FY 2021-22 are Rs. 0.12 Crore and Rs. 0.11 Crore respectively as per annual audited accounts. The escalation factor has been considered as 9.062772% as determined in Table No.5 for FY 2021-22 for A&G expenses.

4.24 The Commission allows A&G expenses for FY 2020-21 and FY 2021-22 as under:

**Table No. 8: A&G expenses allowed by the Commission for FY 2020-21 and FY 2021-22
(Rs. Crore)**

Sr. No.	Particulars	FY 2020-21	FY 2021-22
1.	A&G Expenses (Baseline for FY 2021-22)	22.69	22.69
2.	Escalation Factor	-	9.062772%
3.	Escalated A&G Expenses	22.69	24.75
4	Fuel & Power	8.72	6.45
5	Audit & ARR fee	0.12	0.11
6	A&G expenses	31.53	31.31

Repair & Maintenance Expenses(R&M)

4.25 As per Regulation 26.1 of PSERC MYT Regulations 2019, the R&M expenses are to be determined as follows:

$$(i) R\&Mn = K * GFA * WPI_n / WPI_{n-1}$$

Where,

'K' is a constant (expressed in %) governing the relationship between R&M costs and Gross Fixed Assets (GFA) for the nth year. The value of 'K' will be specified by the Commission in the MYT order.

'GFA' is the average value of the gross fixed assets of the nth year.

WPI means the average rate (on monthly basis) of Wholesale Price Index (all commodities) over the year for the nth year."

- 4.26 GVK has claimed Repair & Maintenance of Rs.26.78 Crore and Rs.30.52 Crore for FY 2020-21 and FY 2021-22 respectively as per annual audited accounts.
- 4.27 The Commission in Petition no.14 of 2020 had considered Rs 20.14 Crore as R&M expenses for FY 2020-21 for determination of k factor which is constant for the 2nd Control Period.
- 4.28 It needs to be noted that 'K' factor establishes the relationship between gross fixed assets and the Repair and maintenance expenses. The Commission had determined the K factor for 2nd MYT Control Period as 0.6554% in Petition no.14 of 2020 as follows.

**Table No. 9: Calculation of K factor for FY 2021-22 and FY 2022-23
(Rs. Crore)**

Sr. No.	Particulars	FY 2020-21
1	Opening GFA as on 01.04.2020	3,072.81
2	Closing GFA as on 31.03.2021	3,072.81
3	Average GFA	3,072.81
4	R&M Expenses approved in Petition no 14 of 2020	20.14
5	K factor (4/3)	0.6554%

- 4.29 The escalation factor (WPI) of 12.9956% as determined in Table No.5 is considered for escalating R&M expenses for FY 2021-22. Accordingly, the R&M Expenses for FY 2021-22 is determined as follows:

**Table No.10:R&M Expenses allowed by the Commission for FY 2021-22.
(Rs. Crore)**

Sr. No.	Particulars	FY 2021-22
1	Opening GFA	3,072.81
2	Closing GFA	3,072.81
3	Average GFA	3,072.81
4	K factor	0.6554%
5	R&M expenses for FY 2020-21	20.14
6	Escalation factor (WPI)	12.9956%
7	R&M Expenses	22.76

Accordingly, the Commission allows Repair & Maintenance expenses of Rs.20.14 Crore and Rs.22.76 Crore for FY 2020-21 and FY 2021-22 respectively.

4.30 Thus, the Commission approves O&M expenses for FY 2020-21 and FY 2021-22 as under:

Table No.11: O&M Expenses for FY 2020-21 and FY 2021-22 allowed by the Commission.

Sr. No	Particulars	(Rs. Crore)	
		FY 2020-21	FY 2021-22
1	Employee Expenses	11.46	12.24
2	A&G Expenses	31.53	31.31
3	R&M Expenses	20.14	22.76
4	Total	63.13	66.31

5.0 Depreciation

5.1 GVK submitted that Regulation 21 of the PSERC Tariff Regulations, 2019 provides for calculation of Depreciation in respect of Coal Based Thermal Generating Plants.

5.2 In terms of the fore-going, GVK has worked out the depreciation for FY2020-21 and FY 2021-22 as under:

Table No. 12: Depreciation for FY 2020-21 and FY 2021-22 submitted by GVK (Rs. Crore)

Sr.No	Particulars	FY 2020-21	FY 2021-22
1	Opening Capital Cost	3072.97	3072.97
2	Less: Undischarged liabilities included in above	0.00	0.00
3	Opening Capital Cost excluding undischarged	0.00	0.00
4	Additional capitalization during the year	0.00	0.00
5	Less: Undischarged liabilities included in additional capitalization	0.00	0.00
6	Add: Liabilities discharged during the year	0.00	0.00
7	Closing Capital Cost	3072.97	3072.97
8	Average Capital Cost	3072.97	3072.97
9	Freehold land	96.75	96.75
10	Rate of depreciation	4.77%	4.77%
11	Remaining depreciable value	2678.68	2678.68
12	Depreciation (annualized)	146.57	146.47

* The Commission has considered the opening and closing gross block by excluding the free hold land. GVK reserves its rights and contentions available under law in this regard.

PSPCL's submission

5.3 PSPCL vide its submission dated 19.01.2023 stated that GVK of the present Petition has claimed an annualized depreciation of Rs.146.57 Crore and Rs.146.47 Crore for FY 2020-21 and FY 2021-22 respectively as against the provisionally allowed depreciation of Rs.141.96 Crore for FY 2020-21 and FY 2021-22 approved by the Commission under its Order dated 26.10.2021 passed in Petition No.14/2020. While claiming this additional sum of Rs.4.64 Crore and Rs.4.51 Crore for FY 2020-21 and FY 2021-22 respectively, the Petitioner has only submitted that it reserves its rights to challenge the Order dated 26.10.2021 in accordance with law. In this regard, it is submitted that vide its Order dated 5.8.2020, the Commission had allowed a depreciation of Rs.142.83 Crore for FY 2019-20. The said allowance by the Commission was challenged by the Petitioner by filing a Petition seeking review of the said Order [bearing

RP No.4/2020]. Meanwhile, while conducting the APR of FY 2019-20, this Commission vide its Order dated 22.12.2020 in Petition no.33 of 2020, provisionally approved a depreciation of Rs.141.94 Crore.

PSPCL further submitted that the methodology for determination of depreciation was settled by this Commission in the Order dated 07.04.2021 in Review Petition no.4 of 2020 in Petition no.69 of 2017. Neither the Petitioner till date has filed any Appeal against the Order dated 22.12.2020 nor against the Order dated 7.4.2021 and as such, the findings of the Commission contained therein have attained finality. Based on the said methodology, this Commission in its Order dated 26.10.2021 in Petition no 14 of 2020 had determined the depreciation of FY 2020-21 as Rs.141.96 Crore after deducting land from the Gross fixed assets which had been in line with Regulation 21 of the PSERC Tariff Regulations, 2019. PSPCL stated that no justification of deviations from the above calculation approved by this Commission or claimed by the Petitioner have been provided. Even otherwise, under Table-3 of the Petition, the remaining depreciable value of the total assets of the Petitioner has been considered at 90% of the average capital cost (net of cost of land) which is completely at variance with the methodology for calculation of depreciation as per this Commission's Order dated 05.8.2020 passed in Petition No.69/2017 and later approved in its Order dated 07.4.2021 passed in Review Petition No.4/2020. As regards the contention of the Petitioner that it reserves its right to challenge the Order dated 26.10.2021 in accordance with law, it is respectfully submitted that the more than one year has passed since the said Order has been passed by the Commission and any challenge to the same at this stage is clearly time barred and the above Order has attained finality. As such, the contention of the Petitioner is wholly

misconceived. PSPCL further stated that this Commission may be pleased to retain the depreciation of Rs.141.96 Crore as provisionally approved by it in its Order dated 26.10.2021 subject to prudence check.

Commission's Analysis

5.4 Regulation 21 of the PSERC MYT Regulations, 2019 specifies as under:

“21.1. The value base for the purpose of depreciation shall be the capital cost of the assets admitted by the Commission:

Provided that the depreciation shall be allowed after reducing the approved original cost of the retired or replaced or decapitalized assets:

Provided that the land, other than the land held under lease and 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 assets:

Provided further that Government. grants and consumer contribution shall also be recognized as defined under Indian Accounting Standard 20 (IND AS 20) notified by the Ministry of Corporate Affairs.

21.2. The residual/salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of historical capital cost of the asset:

Provided that I.T. Equipment and Software shall be depreciated 100% with zero salvage value.

21.3. The Cost of the asset shall include additional capitalization.

21.4. The Generating Company, Transmission and Distribution Licensee shall provide the list of assets added during each Year of the Control Period and the list of assets completing 90% of depreciation in the Year along with Petition for Annual Performance Review, true-up and tariff determination for ensuing Year.

21.5. Depreciation for Distribution, generation and transmission assets shall be calculated annually as per straight line method over the useful life of the asset at the rate of depreciation specified by the Central Electricity Regulatory Commission from time to time:

Provided that the remaining depreciable value as on 31st March of the year closing after a period of 12 years from date of commercial operation/ put in use of the asset shall be spread over the balance useful life of the assets:

Provided further that in case of hydro generating stations, the salvage value shall be as provided in the agreement signed by the developers with the State Government for creation of the asset.

21.6. Depreciation shall be chargeable from the first year of commercial operation/asset is put in use. In case of commercial operation of the asset/put in use of asset for part of the year, depreciation shall be charged on pro rata basis.”

- 5.5 GVK has claimed rate of depreciation as 4.77% for FY 2020-21 and FY 2021-22. GVK has also claimed depreciation on Land which is not as per the above regulations. GVK in this petition has considered opening gross fixed assets as Rs. 3072.97 Crore for FY 2020-21 whereas it has claimed closing gross fixed assets of Rs.3072.81 Crore as on 31.03.2020 for true up of FY 2019-20.
- 5.6 It is observed that GVK has mentioned depreciation of Rs.146.47 Crore FY 2021-22 in table no.12 above but in the Annual Revenue Requirement for FY 2021-22 it has claimed depreciation of Rs.146.57 Crore (Table No.25).
- 5.7 The Opening GFA is considered as per the Closing GFA of Rs. 3072.81 Crores as approved by the Commission in the True up of FY 2019-20 in Petition no.29 of 2021.
- 5.8 The Commission has considered nil addition of GFA for FY 2020-21 and FY 2021-22 for spill over as well as new schemes. The rate of depreciation has been considered as 4.77% as claimed by GVK for FY 2020-21 and FY 2021-22. The depreciation for FY 2020-21 and FY 2021-22 is as under:

**Table No.13: Depreciation allowed by the Commission for FY 2020-21
and FY 2021-22
(Rs. Crore)**

Sr. No	Particulars	FY 2020-21	FY 2021-22
1.	Opening Gross fixed Assets	3072.81	3072.81
2	Less: Land	96.75	96.75
3	Opening Gross fixed Assets (Net of Land)	2976.06	2976.06
4.	Add: Additions to GFA during the year	0.00	0.00
5.	Less: sale/disposal of assets	0.00	0.00
6.	Closing GFA	2976.06	2976.06
7.	Average GFA	2976.06	2976.06
8	Rate of Depreciation	4.77%	4.77%
9	Depreciation	141.96	141.96

6.0 Return on Equity

GVK's submissions

- 6.1 GVK submitted that Regulations 19 and 20 of PSERC Tariff Regulations, 2019 provide for Debt Equity Ratio and Return on Equity.
- 6.2 GVK further submitted that the actual equity invested in the project amounts to Rs. 1118.06 Crores which is more than the 30% of the Capital Cost of Rs. 3058.37 Crores, as approved by this Commission by way of Order dated 17.01.2020 in Petition 54 of 2017. Hence a normative debt equity ratio of 70:30 has been considered for calculation of Return on Equity.
- 6.3 GVK stated that this Commission has approved a debt equity ratio of 70:30 for 2nd MYT Control Period 2020-21 to FY 2022-23 and the same has been considered for the purpose of truing up. The opening equity as

considered by this Commission has been considered for truing up also. Since there is no additional capital expenditure during FY 2020-21 and FY 2021-22, the closing equity remains unchanged. The ROE has been accordingly worked out as follows:

Table No.14: Return on Equity for FY 2020-21 and FY 2021-22 claimed by GVK (Rs. Crore)

Sr.No	Particulars	FY 2020-21	FY 2021-22
a)	Opening Gross Block (excluding undischarged liabilities)	3072.97	3072.97
b)	Equity percentage in Opening Gross Block	30%	30%
c)	Normative Opening Equity (= a x b)	921.89	921.89
d)	Normative Equity addition @ 30% due to additional capitalization during the year	00.0	00.0
e)	Normative Equity addition considered for ROE computation	00.0	00.0
f)	Normative Closing Equity (= c + e)	921.89	921.89
g)	Average Equity (= Average of c and f)	921.89	921.89
h)	Normative Rate of ROE as per PSERC 2014 Tariff Regulations	15.50%	15.50%
i)	Return on Equity (= h x g)	142.89	142.89

- 6.4 GVK prays to approve Rs.142.89 Crore each for FY 2020-21 and FY 2021-22 as the Return on Equity.

PSPCL'S Submissions

- 6.5 PSPCL vide its submission dated 19.01.2023 stated that GVK has claimed a return on equity of Rs.142.89 Crore for FY 2020-21 and FY 2021-22 which is in line with the ROE approved by the Commission in its Order dated 26.10.2021 passed in Petition No.14/2020 and as such, the same may be approved subject to prudence check.

Commission's Analysis

- 6.6 The Commission determines the Debt equity ratio and return on equity for the Control Period in accordance with Regulation 19 and 20 of PSERC MYT Regulations, 2019 which is reproduced as under:

“19. DEBT EQUITY RATIO

19.1. Existing Projects - *In case of the capital expenditure projects having Commercial Operation Date prior to the effective date, the debt-equity ratio shall be as allowed by the Commission for determination of tariff for the period prior to the effective date:*

Provided that the Commission shall not consider the increase in equity as a result of revaluation of assets (including land) for the purpose of computing return on equity.

[...]

19.3. Renovation and Modernization: *Any approved capital expenditure incurred on Renovation and Modernization including the approval in the Capital Investment plan shall be considered to be financed at normative debt-equity ratio of 70:30. If the actual equity employed is less than 30% then the actual debt equity ratio shall be considered.*

[...]

“20. Return on equity

Return on equity shall be computed at the base rate of 15.5% for thermal generating stations, Transmission Licensee, SLDC and run of the river hydro generating stations and at the base rate of 16.5% for the storage type hydro generating stations and run of river generating stations with pondage and 16% for Distribution Licensee on the paid up equity capital determined in accordance with Regulation 19:

Provided that Equity invested in foreign currency shall be converted to rupee currency based on the exchange rate prevailing on the date(s) it is subscribed:

Provided further that assets funded by consumer contributions, capital subsidies/Government. grants shall not form part of the capital base for the purpose of calculation of Return on Equity.”

- 6.7 The Commission has considered the opening equity for FY 2020-21 as Rs.921.84 Crore as approved closing equity of the true up of FY 2019-20 in Petition no.29 of 2021. The Commission determines Return on

Equity @15.50% on the average equity for the year and is calculated as under:-

Table No. 15: Return on Equity allowed by the Commission for FY 2020-21 and FY 2021-22 (Rs. Crore)

Sr. No	Particulars	FY 2020-21	FY 2021-22
1.	Opening Equity	921.84	921.84
2.	Add: Addition to equity during the year	0.00	0.00
3.	Closing Equity	921.84	921.84
4.	Average Equity	921.84	921.84
5.	Rate of RoE	15.50%	15.50%
6.	Return on Equity	142.89	142.89

The Commission, thus, approves Return on Equity of Rs.142.89 Crore each for FY 2020-21 and FY 2021-22 respectively.

7.0 Interest on Long Term Loan

GVK's submissions

- 7.1 GVK submitted that Regulation 24 of the PSERC Tariff Regulation, 2019 provides for Interest and Finance Charges on Loan Capital.
- 7.2 GVK further submitted that the interest payable by it towards Long Term Loans has been calculated on the outstanding loan amounts and prevailing interest rates on the said amounts on the basis of the Completed Capital Cost of the Project as determined by this Commission by way of Order dated 17.01.2020 in Petition No. 54 of 2017. The interest expenses have been computed taking into account repayment towards outstanding loan amounts and applicable interest rates in line with the PSERC Tariff Regulations, 2019.

- 7.3 GVK stated that in terms of the PSERC Tariff Regulations, 2019, the computation of interest on term loans is based on the following:
- (a) The opening gross normative loan on the Completed Capital Cost as approved by this Commission.
 - (b) The rate of interest has been considered at the actual applicable advance rate of State Bank of India as on 01.04.2020.
 - (c) The repayment during the year has been considered equal to the depreciation allowed for that year.
- 7.4 GVK further stated that it has considered 70% of the capital cost as normative loan for the purpose of calculation of interest on loan. The actual rate of interest on the term loans is 13.22 % for FY 2020-21 and FY 2021-22. GVK stated that this Commission had allowed the interest on loan for the previous years on the basis of actual repayment of loan and actual interest paid during the year with a liberty that the balance interest shall be allowed as and when paid by it.
- 7.5 GVK further submitted that in the Order dated 26.10.2021, this Commission, based on the auditor's certificate, approved interest on loan of prior period as Rs. 117.39 Crores for FY 2018-19 and Rs. 100.71 Crores for FY 2019-20. Thereafter, vide FY 2019-20 True-up Order dated 23.08.2022, this Commission trued up Rs. 0.61 Crores from Rs. 100.71 Crores for FY 2019-20 and observed that the balance amount of Rs. 100.10 Crores paid during FY 2020-21 will be considered at the time of true up of FY 2020-21. The same has been claimed on actuals in the instant Petition. However, the normative interest on loan for the FY 2020-21 has been worked out on the basis of methodology specified in the regulations.

**Table No. 16: Interest on Loan for FY 2020-21 and FY 2021-22 claimed by GVK
(Rs. Crore)**

Sr. No.	Particulars	FY2020-21	FY 2021-22
1	Gross Normative Loan- Opening	2151.08	----
2	Cumulative Repayment up to Previous Year (Cumulative Depreciation up to previous year)	566.80	-----
3	Net Loan Opening	1584.28	1437.71
4	Less: Repayment During the Year (Considering Depreciation as Principal Repayment)	146.57	146.57
5	Loan Addition due to Additional Capitalization during the year (= Actual Additional Capitalization - Normative Equity Addition considered for ROE computation)	0.00	0.00
6	Net Loan Closing	1437.71	1291.13
7	Average Loan	1510.99	1364.42
8	Weighted Average Rate of Interest on Loan (Normative)	13.22%	13.22%
9	Interest on Loan	199.79	180.41
10	Prior Period Interest FY 2018-19	117.39	0.00
11	Prior Period Interest FY 2019-20	100.10	0.00
12	Prior Period Interest	0.00	78.00
13	Bank Charges	3.27	0.00
14	Total	420.55	258.41

7.6 GVK prayed to allow Rs.420.55 Crores as interest on loan for FY 2020-21 and Rs.258.41 Crore as interest on loan for FY 2021-22 which included prior period interest of Rs.78.00 Crore paid by it in FY 2021-22.

PSPCL's Submission

7.7 PSPCL vide its submission dated 19.01.2023 stated that GVK has requested this Commission to allow a sum of Rs.420.55 Crore and Rs.258.41 Crore as against Rs. 342.84 Crore and Rs.181.30 Crore for FY 2020-21 and FY 2021-22 approved by the Commission in its Order dated 26.10.2021. The amount of interest for FY 2020-21 as approved by the Commission includes Rs.121.47 Crore for FY 2020-21, Rs.100.71

Crore for FY 2019-20, Rs.117.39 Crore for FY 2018-19 and Rs.3.27 Crore being financing charges. Thereafter, the Commission in its order dated 23.08.2022(Petition No.29 of 2021) while conducting APR for FY 2020-21,observed that an amount of Rs.100.10 Crore paid during FY 2020-21 will be considered at the time of true-up. In the present Petition while calculating interest on loan, the Petitioner has made the following deviations for the aforesaid Orders:

- (i) the Petitioner has considered a sum of Rs.146.57 Crore as loan repayment being the depreciation claimed by it for FY 2020-21 as against a sum of Rs.141.96 Crore allowed by this Commission in its Order dated 26.10.2021. In this regard, the objections of the Respondent on the issue of Depreciation may kindly be considered by this Commission; and
- (ii) the Petitioner has considered a sum of Rs.199.71 Crore as actual interest on loan paid by it for FY 2020-21 as against Rs.121.47 Crore allowed by this Commission in its Order dated 26.10.2021. PSPCL submitted that as per the auditor's certificate furnished by the Petitioner along with the present Petition, the Petitioner has only paid a sum of Rs.340.72 Crore in FY 2020-21. It is submitted that it has been the consistent view adopted by the Commission that only the actual interest paid by the Petitioner in a given FY can be considered as its interest on loan and any additional interest payment would be considered in the FY that it is actually paid.
- (iii) the Petitioner has considered a sum of Rs.78 Crore as 'prior period interest'. However, the Petitioner has failed to substantiate as to for which FY the said interest has been paid for.

PSPCL submitted that in view of the Order dated 17.09.2020 passed in Petition No. 34 of 2019 and Orders dated 07.04.2021 passed in Review Petition No. 6 of 2020 truing up the of AFC of the Petitioner for the period FY 2018-19 and Order dated 23.08.2022 passed in Petition No. 29 of 2021 truing up the AFC for FY 2019-20, the following adjustments are pending to be incorporated in the tariff of the Petitioner, however, due interim Orders passed by the Hon'ble Appellate Tribunal in Appeal No.41/2020, the Respondent has been restricted from undertaking the same:

- (i) For FY 2018-19: Principal Amount payable is Rs 381.74 Crore as against actually paid amount of Rs. 627.14 Crore with a cumulative PAF of 66.22% as per the accounts of SLDC;
- (ii) For FY 2019-20: Principal Amount payable is Rs 470.54 Crore as against actually paid amount of Rs. 752.88 Crore with a cumulative PAF of 99.04 % as per accounts of SLDC

From the above it is manifest that the Petitioner is currently retaining overpaid principal amount to the tune of Rs 528 Crore during the above period. As such, it is reasonable to construe that the additional interest which the Petitioner is claiming for the past period of FY 2018-19 and FY 2019-20 during FY 2020-21 in the present Petition is already a part of the aforesaid pending recoveries. It is therefore respectfully prayed that the interest on loan for the Petitioner should be limited to either the normative interest for FY 2021-22 or the interest actually paid by the Petitioner for FY 2021-22, excluding past period interests, whichever is minimum.

Commission's Analysis

- 7.8 The Commission determines the Interest on loan capital for FY 2020-21 and FY 2021-22 as per Regulation 24 of the PSERC MYT Regulations, 2019. It is reproduced as under:

“24.1. For existing loan capital, interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the actual rate of interest and the schedule of repayment as per the terms and conditions of relevant agreements. The rate of interest shall be the actual rate of interest paid/payable (other than working capital loans) on loans by the Licensee.

24.2. Interest and finance charges on the future loan capital for new investments shall be computed on the loans, based on one (1) year State Bank of India (SBI) MCLR/ any replacement thereof as notified by RBI as may be applicable as on 1st April of the relevant year, plus a margin determined on the basis of current actual rate of interest of the capital expenditure loan taken by the Generating Company, Licensee or SLDC and prevailing SBI MCLR.

24.3. The repayment for each year of the tariff period shall be deemed to be equal to the depreciation allowed for the corresponding year. In case of de-capitalisation of assets, the repayment shall be adjusted by taking into account cumulative depreciation made to the extent of de-capitalisation.

24.4. The Commission shall allow obligatory taxes on interest, finance charges (including guarantee fee payable to the Government) and any exchange rate difference arising from foreign currency borrowings, as finance cost.

24.5. The interest on excess equity treated as loan shall be serviced at the weighted average interest rate of actual loan taken from the lenders.

Provided also 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 for the actual loan shall be considered.”

- 7.9 The Opening loan for FY 2020-21 which includes normative loan has been considered as Rs. 1584.28 Crore as per the Closing loan in true up of FY 2019-20 in Petition no.29 of 2021. As per regulation 24.3 of PSERC MYT Regulation 2019, the repayment of loan has been considered equal to depreciation allowed for the corresponding

year. There is no addition of capital expenditure during FY 2020-21 and FY 2021-22. The rate of interest on loan capital has been taken as 13.22% as determined by GVK in Format G14 of its Petition.

7.10 The Commission determines Interest on long term loans as under:

**Table No. 17: Interest charges determined by the Commission for FY 2020-21
(Rs. Crore)**

Sr. No.	Particulars	Long Term Loans	Normative Loans	Total Long Term Loan
1.	Opening balance of Long-Term loan	1436.82	147.46	1584.28
2	Add: Receipt of loan during the year	0.00	0.00	0.00
3	Less: Repayment of Long-term loan during the year	128.66	13.30	141.96
4	Closing balance of Long- term loan	1308.16	134.16	1442.32
5	Average Long-Term Loan	1372.49	140.81	1513.30
6	Interest rate	13.22%	13.22%	13.22%
7	Interest charges	181.45	18.61	200.06

**Table No. 18: Interest charges determined by the Commission for FY 2021-22
(Rs. Crore)**

Sr. No.	Particulars	Long Term Loans	Normative Loans	Total Long Term Loan
1.	Opening balance of Long-Term loan	1308.16	134.16	1442.32
2	Add: Receipt of loan during the year	0.00	0.00	0.00
3	Less: Repayment of Long-term loan during the year	128.66	13.30	141.96
4	Closing balance of Long- term loan	1179.50	120.86	1300.36
5	Average Long-Term Loan	1243.83	127.51	1371.34
6	Interest rate	13.22%	13.22%	13.22%
7	Interest charges	164.44	16.86	181.30

7.11 The Commission in its orders in GVK's Petition No. 34 of 2019 for true up of FY 2018-19 deferred the amount of interest charges not actually paid by GVK amounting to Rs.139.52 Crore. GVK filed review Petitions no. 6 of 2020 against the orders of this Commission in Petition No.34 of 2019. The Commission while disposing of the Review petition allowed Rs.22.13 Crore of interest charges pertaining to normative loan in lieu of equity for FY 2018-19. Thus, balance deferred interest for FY 2018-19 was Rs.117.39 (139.52-22.13) Crore.

The Commission in its orders in GVK's Petition No. 29 of 2021 for true up of FY 2019-20 deferred the amount of interest charges not actually paid by GVK amounting to Rs.110.10 Crore.

Thus, the year wise details of balance deferred interest is as under:

Table No. 19: Year wise details of balance deferred interest.

(Rs. Crore)		
Sr. No.	Particulars	Amount
1	FY 2018-19	117.39
2	FY 2019-20	100.10
3	TOTAL Interest deferred	217.49

7.12 GVK in Petition no 14 of 2020 had submitted a certificate from M/s Saranga Pani & Co, Chartered Accountants (CA) Hyderabad dated 27.05.2021 certifying that GVK had paid Rs. 340.72 Crores towards the interest on long term borrowings and Rs. 3.27 Crores towards the finance charges during FY 2020-21. GVK in its affidavit dated 13.07.2021 apportioned this amount of Rs.340.72 Crore towards interest payable for the year FY2018-19, FY2019-20 and FY2020-

21 amounting to Rs.117.39 Crore, Rs.120.47 Crore and Rs.102.86 Crore respectively and Rs.3.27 Crore as finance charges.

Therefore, on the basis of CA's certificate, the Commission allows deferred interest of Rs 117.39 Crore and Rs 100.10 Crore (as per table no 18) for FY 2018-19 and FY 2019-20 respectively.

7.13 The Commission as per Table no. 16 has determined interest of Rs.200.06 Crore including normative interest of Rs. 18.61 Crores for FY 2020-21. As stated above in Para 7.11 above, GVK had actually paid interest of Rs 102.86 Crore in FY 2020-21. Therefore, the Commission allows total interest of Rs. 121.47 Crores (Rs. 102.86 Crores + Rs.18.61 Crores) along with deferred interest of Rs 217.49 (117.39+100.10) Crore for FY 2020-21 and balance interest of Rs. 78.59 (200.06-121.47) Crore is deferred and will be considered in FY 2021-22.

7.14 The Commission as per Table no. 17 has determined interest of Rs.181.30 Crore including normative interest for FY 2021-22. GVK submitted a certificate from M/s Saranga Pani & Co, Chartered Accountants Hyderabad dated 19.11.2022 certifying that GVK had paid Rs. 284.44 Crores towards the interest on long term borrowings and Rs. 1.74 Crores towards the financing charges during FY 2021-22.

GVK in Table no.15 has claimed interest of previous years amounting to Rs.78.00 Crore instead of Rs.78.59 Crore as determined in para no.7.12 above. Since GVK had actually paid interest of Rs 284.44 Crore in FY 2021-22, the Commission allows total interest of Rs. 259.89 (Rs. 181.30+78.59) Crores for FY 2021-22.

7.15 The Commission allows finance charges of Rs.3.27 Crore and Rs.1.74 Crore for FY 2020-21 and FY 2021-22 respectively.

Accordingly, the Commission allows Rs. 342.23 (217.49++ 121.47 + 3.27) Crore for FY 2020-21 and Rs. 261.63 (259.89+1.74) Crore for FY 2021-22.

8.0 Other Income

GVK's submissions

8.1 GVK submitted the other income for the FY 2020-21 and FY 2021-22 asunder and prayed that the same may be approved by this Commission:

Table No.20: Other Income for FY 2020-21 and FY 2021-22 submitted by GVK (Rs. Crore)

Sr.no	Particular	FY 2020-21	FY 2021-22
1	Interest on Bank FD	0.21	0.12
2	Interest earned on delayed payments by Customers	0.29	0.00
3	Interest on Income Tax Refunds	0.00	0.15
4	Sale of Scrap	0.01	0.13
5	Total	0.51	0.40

PSPCL's Submission

8.2 PSPCL vide its submission dated 19.01.2023 submitted that GVK has submitted that it has received a sum of Rs.0.51 Crore and Rs.0.40 Crore as other income for FY 2020-21 and FY 2021-22 respectively. The Respondent submits that the same may be allowed subject to prudence check.

Commission's Analysis

8.3 Non-Tariff Income is to be determined as per Regulation 28 of PSERC MYT Regulations 2019.

8.4 Non Tariff income as per GVK's Annual Audited Accounts for FY 2020-21 and FY 2021-22 is as under:

Table No.21: GVK's Other Income as per Annual Audited Accounts for FY 2020-21 and FY 2021-22 (Rs. Crore)

Sr.no	Particular	FY 2020-21	FY 2021-22
1	Interest on Bank FD	0.21	0.12
2	Interest earned on delayed payments by Customers	0.29	11.76
3	Interest on Income Tax Refunds	0.00	0.15
4	Sale of Scrap	0.01	0.12
5	Excess /short provisions of earlier years	0.00	0.47
6	Profit on sale of Assets	0.00	0.01
7	Total	0.51	12.63

The Commission considers interest earned on delayed payments by Customers, excess /short provisions of earlier years, interest on income tax refunds and profit on sale of assets as non-tariff income also. **Thus, the Commission allows Rs.0.51 Crore and Rs. 12.63 Crore as non-Tariff income for FY 2020-21 and FY 2021-22 respectively.**

9.0 Interest on Working Capital

GVK's submissions

- 9.1 GVK submitted that in terms of Regulation 33 of the PSERC Tariff Regulations 2019, the Working Capital has been considered.
- 9.2 GVK further submitted that it has calculated the Working Capital in line with the above regulations as follows:

Table No.22: Working Capital for FY 2020-21 and FY 2021-22 submitted by GVK (Rs. Crore)

Sr. No.	Particulars	FY 2020-21	FY 2021-22
A	For Coal Based Generating		
1	Cost of Fuel for 2 months corresponding to Normative Annual Plant Availability Factor.	246.90	287.71
2	O&M expenses for 1 month	6.49	6.62
3	Receivables equivalent to 2 months of fixed & variable charges for sale of electricity calculated on the normative annual plant	353.01	391.42

4	Maintenance Spares (@15% of O&M Expenses)	11.68	11.92
B	Total Working Capital	618.08	697.67

9.3 GVK stated that Rate of interest on working capital has been calculated in terms of Regulation 25.1 of PSERC Tariff Regulations 2014.

9.4 GVK further stated that the actual rate of interest on working capital loan has been worked out as 12.25 % which is higher than the prevalent SBI rate of 11.25% and 10.50% on 01.04.2020 and 01.04.2021 respectively. Hence the interest rate of 11.25% and 10.50% has been considered for the purpose of calculation of interest rate on working capital for FY 2020-21 and FY 2021-22 respectively.

Table No. 23: Interest on Working Capital for FY 2020-21 and FY 2021-22 submitted by GVK (Rs. Crore)

Sr.No.	Particular	FY 2020-21	FY 2021-22
1	Total Working Capital	618.08	697.67
2	Rate of Interest on Working	11.25%	10.50%
3	Interest	69.53	73.26

9.5 GVK stated that it is claiming interest on working capital on actual basis, as incurred. GVK further stated that PLF of the Project was on the lower side leading to an increase in the Working Capital. GVK prayed to approve the Interest on Working Capital, on actual basis

PSPCL's submission

9.6 PSPCL vide its submission dated 19.01.2023 stated that GVK has claimed in interest on working capital of Rs.69.53 Crore and Rs.73.26 Crore as against Rs.57.13 Crore Rs.52.04 Crore for FY 2020-21 and FY 2021-22 respectively, which was provisionally approved by the Commission in its Order dated 26.10.2021. The Petitioner has taken the base of working capital requirement of Rs. 618.08 Crore as against Rs. 507.79 Crore for FY 2020-21 as approved by the Commission. It is the

submission of the Petitioner that the said claim has been based upon on actual basis, as incurred based upon the computation of working capital.

PSPCL submitted that during FY 2020-21, a sum of Rs.445.39 Crore has been paid by the Respondent to the Petitioner as energy charges. Considering the above, fuel cost of 2 months works out to Rs.74.23 Crore as against Rs.246.90 Crore as has erroneously been claimed by the Petitioner . PSPCL further submitted that so far as one month's O&M expenses and maintenance spares are concerned, same are subject to approval of normative O&M expenses by this Commission. With respect to claim towards receivables for 2 months during FY 2020-21, it is submitted that the Respondent has paid a total sum of Rs.1,101.23 Crore (Rs.445.39 as energy charges + Rs.655.84 Crore as fixed charges. Based on the same, the average receivables for 2 months for the Petitioner's generating station works out to Rs.183.53 Crore only. PSPCL submitted that the highly inflated cost for fuel and receivables as claimed by the Petitioner are liable to be rejected by this Commission. With the revision of working capital requirement based upon the above stated cost for fuel and receivables and O&M expense, the computation of interest on working capital is also liable to be adjusted accordingly by this Commission.

PSPCL submitted that during FY 2021-22, a sum of Rs.654.44 Crore has been paid by it to the Petitioner as energy charges. Considering the above, fuel cost of 2 months works out to Rs.109.07 Crore as against Rs.287.71 Crore as has erroneously been claimed by the Petitioner . PSPCL further submitted that so far as one month's O&M expenses and maintenance spares are concerned, the same are subject to approval of normative O&M expenses by the Commission. With respect to claim towards receivables for 2 months during FY 2021-22, PSPCL submitted

that the Respondent has paid a total sum of Rs.1,114.26 Crore (Rs.654.44 as energy charges + Rs.459.82 Crore as fixed charges) . Based on the same, the average receivables for 2 months for the Petitioner's generating station works out to Rs.185.71 Crore only. It is, therefore, submitted that the highly inflated cost for fuel and receivables as claimed by the Petitioner are liable to be rejected by this Commission. With the revision of working capital requirement based upon the above stated cost for fuel and receivables and O&M expense, the computation of interest on working capital is also liable to be adjusted accordingly by this Commission.

Commission's Analysis

- 9.7 The Commission has computed the interest on working capital as per Regulation-33.1 of the PSERC MYT Regulations, 2019 which specifies as under:
- i. Fuel Cost including cost of limestone / other reagent for 2 months corresponding to the normative annual plant availability factor;*
 - ii. Operation and maintenance (O&M) Expenses for 1 month;*
 - iii. Maintenance spares @ 15% of the O&M expenses;*
 - iv. Receivables equivalent to two (2) months of fixed and variable charges for sale of electricity calculated on the normative annual plant availability factor.*
- 9.8 The Commission has computed the rate of interest on working capital as per Regulation 25.1 of the PSERC MYT Regulations, 2019 which specifies as under:

“25.1 *The rate of interest on working capital shall be equal to the actual rate of interest paid on working capital loans by the Licensee/Generating Company/SLDC or the one (1) Year State Bank of India (SBI) MCLR/any replacement thereof as notified by RBI as may be applicable as on 1st April of the relevant year plus 350 basis points, whichever is lower. The interest on working capital shall be payable on normative basis notwithstanding that the Licensee/Generating Company/SLDC has not taken working capital loan from*

any outside agency or has exceeded the working capital loan amount worked out on the normative figures.”

- 9.9 The Commission has determined the rate of interest as per above Regulation as under:

Table No.24: Rate of interest on Working Capital allowed by the Commission for FY 2020-21

Sr. No.	Particular	FY 2020-21
1	Rate of Interest for Working Capital Loans claimed by GVK for FY 2020-21	11.25%
2	SBI 1 yr MCLR (as on 01 April 2020)	7.75%
3	Add 350 basis points as per Regulation 25.1	3.50%
4	Rate of interest as per Regulation 25.1 (3+4)	11.25%
5	Allowable Rate of Interest for Working capital	11.25%

Table No.25: Rate of interest on Working Capital allowed by the Commission for FY 2021-22

Sr. No.	Particular	FY 2021-22
1	Rate of Interest for Working Capital Loans claimed by GVK for FY 2021-22	12.25%
2	SBI 1 yr MCLR (as on 01 April 2021)	7.00%
3	Add 350 basis points as per Regulation 25.1	3.50%
4	Rate of interest as per Regulation 25.1 (3+4)	10.50%
5	Allowable Rate of Interest for Working capital	10.50%

- 9.10 The energy charges paid to M/s GVK by PSPCL during FY 2020-21 and FY 2021-22 were Rs. 445.39 Crore and Rs.654.44 Crore respectively. Thus, fuel cost of Rs. 445.39 Crore and Rs.654.44 Crore has been considered for the determination of receivables for FY 2020-21 and FY 2021-22 respectively as under:-

**Table No. 26: Calculation of receivables for FY 2020-21 and FY 2021-22
(Rs. Crore)**

Sr No	Particulars	FY2020-21	FY2021-22
1	Fuel Cost	445.39	654.44
2	O&M Expenses	63.13	66.32
3	Depreciation	141.96	141.96
4	Interest charges	342.23	261.63
5	Interest on Working Capital	31.89	35.66
6	Return on Equity	142.89	142.89
7	Gross Expenses	1167.49	1302.90
8	Less: Non-Tariff Income	0.51	12.63
9	Net Total Expenses	1166.98	1290.27
10	Receivable for 2 months(Sr.No9/6)	194.50	215.04

The Commission determines interest on working capital as under:

**Table No. 27: Interest on working capital allowed by the Commission for FY 2020-21 and FY 2021-22
(Rs. Crore)**

Sr. No	Particular	FY 2020-21	FY 2021-22
1.	Fuel Cost for 2 months(Table no.25,sr.no 1/6)	74.23	109.07
2.	Maintenance spares @15% of O&M (Table no.11)	9.47	9.95
3.	O&M Expenses for one month(Table no.11)	5.26	5.53
4.	Receivables for two months (Table no.25)	194.50	215.04
5.	Total Working Capital	283.46	339.59
6.	Rate of Interest (%)	11.25%	10.50%
7.	Interest on Working Capital	31.89	35.66

Thus, the Commission allows interest on working capital of Rs. 31.89 Crore and Rs. 35.66 Crore for FY 2020-21 and FY 2021-22 respectively.

10.0 Annual Fixed Charges

10.1 The Capacity charges for true up for FY 2020-21 and FY 2021-22, as claimed by GVK and allowed by the Commission is summarized in the following table:-

Table No. 28: Annual Fixed charges approved by the Commission for FY 2020-21 and FY 2021-22 (Rs. Crore)

Sr No	Particulars	Approved by the Commission in Petition no. 14 of 2020		GVK's submission		Approved by the Commission	
		FY 2020-21	FY 2021-22	FY 2020-21	FY 2021-22	FY 2020-21	FY 2021-22
1	O&M Expenses	65.81	67.49	77.88	79.49	63.13	66.31
2	Depreciation	141.96	141.96	146.57	146.57	141.96	141.96
3	Interest charges	342.84	184.57	420.55	258.41	*342.23	**261.63
4	Interest on Working Capital	57.13	52.03	69.53	73.26	31.89	35.66
5	Return on Equity	142.89	142.89	142.89	142.89	142.89	142.89
6	Total Expenses	750.63	588.94	857.42	700.62	722.10	648.45
7	Less: Non-Tariff Income	0.00	0.00	0.51	0.40	0.51	12.63
8	Capacity Charges	750.63	588.94	856.91	700.22	721.59	635.82

Note: *The amount of the interest charges of Rs 342.23 Crore includes deferred interest for earlier years (Rs. 117.39 Crore for FY 2018-19 and Rs. 100.10 Crore for FY 2019-20 totaling Rs. 217.49 Crore).

**Similarly, in FY 2021-22, deferred interest of earlier year amounting to Rs.78.59 Crore is included .

10.2 GVK shall be entitled for payment of capacity charges and energy charges in accordance with Regulation 30 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (as amended) where the same is not specified in the PSERC Tariff Regulations.

11.0 Energy Charges/Fuel Cost for FY 2020-21 and FY 2021-22**Energy Charges****11.1 GVK's Submission:**

GVK has claimed the fuel cost/ Energy charges for FY2020-21 and FY 2021-22 based on following operating and cost parameters:

Table No.29: Energy charges for FY2020-21 and FY 2021-22 submitted by GVK

Sr. No	Particulars	Unit	Actuals	
			FY 2020-21	FY 2021-22
1	Plant Capacity	MW	540	540
2	Plant Load Factor	%	27.12%	39.78%
3	Gross Generation	MU	1283	1882.19
4	Auxiliary Consumption	%	9.18%	9.36
5	Net Generation	MU	1165	1706.01
6	Availability Factor	%	89 %	67.37%
7	Station Heat Rate	kcal/kWh	2404	2316
8	Weighted Avg.GCV of received Coal	kcal/kg	3454	3325
9	Specific Consumption of Coal	kg/kWh	0.67	0.76
10	Quantity of Coal Received	MT		
	Indigenous		854497	1430461
	Other (specify)		-	-
11	Transit Loss of Coal	MT(%)		
	Indigenous		11273 (1.30%)	29938 (2.05%)
	Other(specify)		-	-
12	Total Quantity of Coal	MT	865770	1460400
13	Quantity of Oil	KL	1005.27	1715.62
14	Specific Oil Consumption	ml/kWh	0.78	0.912
15	Weighted Average GCV of oil	kCal/litre	10332	10700
16	Weighted Average Coal Cost	Rs./MT	5863	6093
17	Total Coal Cost	Rs. Crore	507.57	889.75
18	Weighted Average Oil Cost	Rs./kL	42858.26	59723.60
19	Total Oil Cost	Rs. Crore	4.31	10.25
20	Total Fuel Cost	Rs.Crore	511.88	900.00
21	Total Fuel/Variable Cost	Paisa/kWh	439.42	527.55

11.2 PSPCL's Comments

PSPCL vide its submission dated 19.01.2023 has stated that this Commission has consistently held that the energy charges payable to GVK are to be in accordance with the methodologies and calculations prescribed by the Commission in the Order dated 1.2.2016 common to Petition Nos. 65/2013 and 33/2015, Order dated 6.3.2019 in Petition No.68/2017 and Order dated 27.05.2019 in Petition No. 01 of 2018. Thus, the Commission has completely settled the issue as regards payments of energy charges to be paid to GVK. As per the methodology prescribed by this Commission, payment of fuel cost to GVK is based on the actual invoices of fuel procurement to be supplied by GVK to the Respondent along with its tariff bills. Thus, the payment of energy charges, as directed by PSERC is to be made based on the actual fuel charges incurred by GVK, subject to verification of the invoices and the weighted average analysis with PSPCL's own generating plants. There is no question therefore of determination of any specific 'Energy Charge Rate' as has been sought by GVK.

PSPCL also submitted details of month wise Energy Charges paid to GVK, indicating the actual payments of Rs. 445.39 Crore for the scheduled generation in FY 2020-21 and Rs. 654.44 Crore for the scheduled generation in FY 2021-22.

11.3 Commission's Analysis

Energy Charges for a thermal power station is determinable on the basis of performance parameters & landed cost of fuel and payable on the basis of scheduled energy. The Commission observes that:

- a) The performance parameters considered by the Petitioner are not as per the CERC norms as mandated in the PSERC Tariff regulations, which specifies as under:

“35. NORMS FOR PERFORMANCE PARAMETERS

The norms for performance parameters for a Generating Company i.e. availability, load factor, station heat rate, specific oil consumption, auxiliary consumption etc. shall be as per the CERC norms or as determined by the Commission”

- b) The issue of landed cost for the coal arranged by the petitioner has been settled by the Commission in the Order dated 1.2.2016 (common to Petition Nos. 65/2013 & 33/2015) and Order dated 27.05.2019 (in Petition No. 01/2018), read with Order dated 6.3.2019 in Petition No.68/2017. The relevant extracts of the Orders are reproduced below:

- (i) **Order dated 1.2.2016 common to Petition Nos. 65/2013 and 33/2015;**

“24.1(i) As per the PPA dated 26.05.2009 signed between the then PSEB (now PSPCL) and GVK, the coal for the Project was to be sourced from captive coal block at Tokisud North and any other block allocated to the Project. The fuel charges linked to the coal cost based on the quantity and quality of coal delivered at the Project were not to exceed the cost as prevailing in the Pachhawara captive coal mine of PSEB (now PSPCL)

.....

25.the Commission notes that both the identified sources of coal for the Project stands cancelled by the judgment of Hon'ble Supreme Court of India.....

.....the petitioner is directed to make sincere and concerted efforts to arrange long term source of coal for the entire term of the

PPA and keep PSPCL informed of the developments in this regard at reasonable intervals. As regards the cost to be allowed for the interim coal arranged by the petitioner, the Commission is of the view that in the PPA the same was not to exceed the cost of coal sourced by PSPCL from its captive Pachhawara Coal Block. the same is yet to become operational. Accordingly, the Commission holds that the petitioner shall be paid, the weighted average cost of coal received by the thermal power plants of PSPCL from Coal India Ltd. and its subsidiaries in the particular month, along with the actual transportation charges paid by the petitioner to the Indian railways for transporting the coal to the Project from the port / mine in case of imported / domestic coal as the case may be or the actual cost of coal procured by the petitioner, whichever is less. PSPCL may, if it so desires, participate in their interim coal procurement process undertaken by the petitioner who shall extend full cooperation in this regard to PSPCL.

The Commission holds that this arrangement is purely temporary and the petitioner will arrange the long term linkage of coal at the earliest or successfully bid for a mine in the bidding to be conducted by Govt. of India in near future and keep PSPCL abreast of the latest developments in this regard from time to time. The Commission further holds that the above decision will not in any way affect or prejudice the arbitration proceedings and / or decision in the arbitration proceedings.”

(ii) Order dated 6.3.2019 in Petition No.68/2017:

Thereafter, the Commission also settled the following issues w.r.t. to the Coal cost/Energy Charges raised by the Petitioner:

- Surface Transport at mine end & Handling charges;
- Gross Calorific Value (GCV);
- Coal Testing charges;
- Transit & handling losses;
- IEGC compensation

- Difference in Scheduled Energy;

(iii) **Order dated 27.05.2019 in Petition No. 01 of 2018:**

Subsequently, on the issue of procurement of coal by GVK under the SHAKTI Scheme, the Commission clarified as under:

“18.....the Commission is of the opinion that the basic price of the coal and other charges/costs included in the coal bills of the coal company have to be compulsorily paid in full by the procurer of coal who incidentally has no control over it, be it PSPCL or GVK. Therefore, the Commission holds that in respect of the coal received under the SHAKTI Scheme, the coal cost for the purpose of calculating the monthly energy charges shall be the cost of coal as per the bill raised by the coal company including all the statutory charges/taxes/duties/cess, surface transportation (upto the delivery point located within the mine) etc. billed in the coal bills issued by the coal company to GVK. Further, the actual transportation charges paid to Indian Railways shall be considered for calculating the monthly energy charges. As regards the surface transportation charges (external), in case the railway siding is away from the delivery point of coal located within the mine [upto which the surface transportation charges (internal) are included in the bill of the coal company], the Commission has already decided the same in its Order dated 06.03.2019 in petition No. 68 of 2017.....”

.....Consequently, the Commission’s Order dated 01.02.2016 shall stand modified for the coal supplied under SHAKTI 2017 scheme for the GVK project.

However, as regards the coal received by GVK from sources other than the coal received under SHAKTI scheme, the payment of energy charges shall continue to be made by PSPCL to GVK in terms of the Amended and Restated PPA and relevant Orders of the Commission in this regard i.e. Order dated 01.02.2016 common to petition no. 65 of 2013 & 33 of 2015 and Order dated 06.03.2019 in petition no. 68 of 2017.”

c) Further, the provisions exists in the PPA for resolution of dispute(s), if any, pertaining to the monthly bills, as well as for Quarterly and Annual Reconciliation of same to take in to account Energy Accounts, Adjustment Payments, Tariff Rebate Payments, Late Payment Surcharge, or any other reasonable circumstance provided under the Agreement.

In view of the above, the Commission observes that the PSERC Regulations provide for computation and payment of the monthly energy charges/fuel cost on the basis of normative performance parameters, applicable landed fuel cost and actual scheduled energy, which is dependent on the actual monthly data. The same is also subject to the quarterly and annual reconciliation as per the provisions of the PPA. Thus, with the issue of applicable landed fuel cost already dealt in various Orders by the Commission and the provision for raising the dispute, if any, regarding the monthly bills/payments and procedure for redressing the same also existing in the PPA, the Commission finds no justification in re-visiting the same and claim of the Petitioner to allow the same by considering the performance parameters other than the norms specified in the Regulations is not maintainable.

12.0 Interest on under-recovered or over-recovered fixed charges:

12.1 The Commission notes that the applicability of Regulation 9 of PSERC Regulations (Terms and Conditions for determination of Tariff), 2005 would be on the distribution companies or generating cum distribution companies and cannot be applied as it is, to the standalone generating companies. The Commission observes that Regulation 13(4) of CERC

(Terms and Conditions of Tariff) Regulation, 2019 are squarely applicable to under recovery or over recovery of fixed charges in case of generating companies.

- 12.2 The Regulation 13(4) of CERC (Terms and Conditions of Tariff) Regulation, 2019 is re-produced below for reference: -

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

- 12.3 The Commission decides to adopt the CERC Regulations for determining interest equivalent to bank rate on under recovery or over recovery of fixed charges.

Accordingly, interest shall be allowable or recoverable as per Regulation 13(4) of CERC (Terms and Conditions of Tariff) Regulation, 2019 on under-recovered or over-recovered Annual Fixed Charges (AFC) determined by the Commission.

This Petition stands disposed of accordingly.

Sd/-
(Paramjeet Singh)
Member

Sd/-
(Viswajeet Khanna)
Chairperson

Chandigarh

Dated: **12.07.2023**