PUNJAB STATE ELECTRICITY REGULATORY COMMISSION

SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 75 of 2022
Date of Order:10.10.2023

Petition for approval of Annual Fixed Cost for 100 MW Malana-II Hydro-Electric Project for Multi Year Tariff (MYT) Control Period (FY 2020-21 to FY 2022-23), Revised Estimates as per provisional accounts for FY 2022-23, under Section 62 and 64 of the Electricity Act. 2003 read with Regulation 60 of PSERC (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff), Regulations, 2019 and approval of fixed cost for MYT Control Period (FY 2023-24 to FY 2025-26) read with the PSERC (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff), Regulations, 2022.

AND

In the matter of : M/s Everest Power Private Ltd, having its registered office No. C-35, Sector-II, Phase-I Main Road, New Shimla-171009, Himachal Pradesh and Corporate office at 15th Floor, Hindustan Times, 18-20, KG Marg, New Delhi-110001.

.....Petitioner

Versus

1. Punjab State Power Corporation Limited, the Mall Patiala-147001 (Punjab).
2. PTC India Limited, 2nd Floor, NBCC Tower, 15, Bikaji Cama Place, New Delhi- 110066.

.....Respondents

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

EPPL: Sh. Siva Muthu Kumar, Advocate

PSPCL: Sh. Anand K Ganesan, Advocate

PTC: Sh. Sagnik Maitra, Advocate

Order

1.0 M/s Everest Power Private Ltd. (EPPL) has a 100 MW Malana- II Hydro Electric Project in Himachal Pradesh and has filed the present petition for approval of Annual Fixed Cost for its project for Multi Year Tariff (MYT) Control Period (FY 2020-21 to FY 2022-23), Revised Estimates as per provisional accounts for FY 2022-23, under Section 62 and 64 of the Electricity Act. 2003 read with Regulation 60 of PSERC (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff), Regulations, 2019 and approval of fixed cost for MYT Control Period (FY 2023-24 to FY 2025-26) read with the PSERC (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff), Regulations, 2022.

EPPL has prayed in the petition to:-

a) To allow Revised Estimate of Annual Fixed Cost of Rs. 147.95 Cr. for FY 2022 – 23, Annual Fixed Cost of Rs. 147.94 Cr. for FY 2023-24, Annual Fixed Cost of Rs. 146.42 Cr. for FY 2024-25 and Annual Fixed Cost of Rs. 144.64 Cr. for FY 2025-26.
b) Allow Audit Fees and Regulatory Fees over and above the O&M Expenses as per the PSERC MYT Regulations;
c) Direct PSPCL to pay the determined Annual Fixed Cost on the terms and conditions as prescribed by the Commission;
d) Interest to be allowed or recovered on under – recovered or over recovered Annual Fixed Charges determined by the Commission.

e) Direct PSPCL to pay SLDC Fees/charges upon submission of invoices from Himachal Pradesh State Load Dispatch Centre as per direction of CERC and HPERC in this regard;

f) Direct PSPCL to reimburse under-recovered energy charges based on the revalidated revised Design Energy numbers allowed by the Commission for FY 2022-23 as well as for previous years;

g) To pass any other order/s as the Commission may deem fit and appropriate under the circumstances of the case and in the interest of justice.

1.2 The petition was admitted vide order dated 06.01.2023 directing the respondents to file their reply in the Petition. EPPL was also directed to publish a public notice inviting objections/suggestions in the Petition from the public/stakeholders. Public notice was published on 01.02.2023 in The Tribune (English), Punjabi Tribune (Punjabi) & Dainik Tribune (Hindi). The public hearing was fixed for 05.04.2023 however, the same was postponed to 13.04.2023 and public notice in this regard was published on 25.03.2023 in the newspapers. The Petition was taken up for hearing as well as public hearing on 13.04.2023, however nobody appeared in the public hearing from the public.

1.3 PSPCL filed reply to the petition vide memo No. 5753 dated 10.04.2023 and EPPL filed rejoinder to the reply filed by PSPCL vide letter dated 29.04.2023. The Counsel for PTC India Ltd. appeared during the hearing on 13.07.2023 and submitted that no reply is required to be filed on behalf of PTC India Ltd. EPPL filed additional submissions vide letter dated 21.07.2023 and PSPCL filed their reply thereto vide memo No. 6923 dated 24.08.2023. After hearing the parties on 30.08.2023, the order was reserved.

Observations and Decision of the Commission

2.0 The Commission has examined the petition the reply filed by PSPCL, rejoinder thereto by the petitioner, the documents adduced on the record and after hearing the parties decides as under:-

Annual Performance Review of FY 2022-23

The Commission decides not to process the Annual Performance Review for FY 2022-23 which is irrelevant at this stage as the purpose is lost with the related period having lapsed. Also, tariff for the 2nd MYT Control Period from FY 2020-21 to FY 2022-23 has already been approved in Petition no.16 of 2020 vide the Commission order dated 09.03.2021. Petition for True up of FY 2022-23 is required to be filed on or before 30th November 2023 which will be decided as per schedule rendering the APR for FY 2022-23 redundant at this stage.

Annual Fixed Cost for 3rd MYT Control Period (FY 2023-24 to FY 2025-26)

3.0 Business Plan including Capital Investment Plan for 3rd MYT Control Period of FY 2023-24 to FY 2025-26

The Commission has already considered the Business Plan including Capital Investment Plan for the 3rd MYT Control Period of FY 2023-24 to FY 2025-26 for EPPL's 100 MW Malana-II Hydro Electric Project in Petition No. 54 of 2022 filed by the Petitioner. The summary of the capital expenditure provisioned/allowed by the Commission in order dated 11.07.2023 is as under:

Table No 1: Capital expenditure provisioned/allowed by the Commission for FY 2023-24 to FY 2025-26 (Amount in Crore)

S. No.	Scheme/work	Provisioned/Allowed by the Commission			
		FY 2023-24	FY 2024-25	FY 2025-26	Total
A.	**Ongoing schemes**				
	1. Construction of Bridge/Culvert	0.61	-	-	**0.61**
B.	**New Schemes**	*	*	*	*
	TOTAL	**0.61**	**-**	**-**	**0.61**

***** *The capital expenditure for Early Warning system (EWS) shall be considered as per the Commissions observation made under Para 3.2.3.1 of the Order.*

The Commission provisionally approves capitalization of Rs 0.61 Crore for FY 2023-24 and nil for both FY 2024-25 and FY 2025-26 which shall be reviewed at the time of true up of the respective years.

4.0 Operation and Maintenance Expenses

EPPL's Submission

4.1 EPPL submitted that O&M expenses have been calculated as per the Regulation 25 of the PSERC MYT Regulations 2022.

4.2 EPPL further submitted that Regulation 8.1 of PSERC MYT Regulations, 2022 specifies the Baseline Values for the control period which shall be determined by this Commission based on figures approved by the Commission in the past, latest audited accounts, estimate of the expected figures for the relevant year, industry benchmarks /norms and other factors etc.

Employee cost

4.3 EPPL stated that for the purpose of filing the instant petition, it has considered audited accounts of the past years, estimated figures for the relevant year and other factors as under. EPPL has actually incurred Employee Cost including terminal benefits of Rs. 8.49 Crore and Rs. 2.12 Crore for FY 2020-21 and FY 2021-22 respectively. EPPL has explained the reason of lower value of employee cost incurred during FY 2021-22. The Project was acquired by the Greenko Group in the beginning of the FY 2021-22 and post-acquisition, restructuring of employees was the sole reason for low Employee Cost during FY 2021-22 and FY 2022-23, as many employees in Senior management had resigned during the transition phase. EPPL further stated that post acquisition and during the FY 2021-22 and FY 2022-23 various activities of the project were handled by the Greenko Groups corporate office staff as well as staff employed in Greenko Group's various subsidiaries like Greenko Asset Management wing, Finance & Accounts wing and Regulatory, Legal and Commercial wing etc.. The strength of the employees in EPPL is being gradually increased. The effect of the same was also reflected in the provisional accounts for FY 2022-23, wherein Employee Cost, from April 2022 to September 2022 (H-1) was Rs. 2.47 Crore, which will further increase by the end of FY 2022-23.

4.4 EPPL submitted that the Employee Cost actually incurred in the 1st control period of Rs. 7.62 Crore, Rs. 7.26 Crore and Rs. 6.41 Crore for the FY 2017-18, FY 2018-19, and FY 2019-20 respectively may please be noted.

4.5 EPPL further submitted that it had also compared the actual Employee cost with that of similar capacity Hydro Electric projects in the country. It clearly shows that the overall employee cost is lower as compared to other projects of similar size. Considering the above, EPPL stated that it is prudent to consider baseline value of Employee cost of Rs. 8.49 Crore for projecting employee cost including terminal benefit for the next control period.

4.6 The indices of Wholesale Price Index (WPI) and Consumer price Index (CPI) for full Year of FY 2020-21 and FY 2021-22 have been taken for working out increase/decrease in WPI and CPI as given below:

Table No 2: Computation of escalation Indices for FY 2023-24 to FY 2025-26

Period	FY 2020-21	FY 2021-22	Increase / Decrease
CPI Index	338.69	356.06	5.13%
WPI Index	123.38	139.41	13.00%

Index n /Index n-1 = 0.5 x 5.13% + 0.5 x 13% = 9.06%

The above indices may be applied for the entire control period i.e., FY 2023-24 to FY 2025-26.

4.7 EPPL submitted employee cost for the 3rd Control Period as under

Table No.3: Calculation of Employee Cost for FY 2023-24 to FY 2025-26

(Rs. Crore)

Sr.no	Particulars	FY 2023-24	FY 2024-25	FY 2025-26
1	Baseline Value for Employee Cost including terminal benefit	8.49	9.26	10.10
2	Index / WPI & CPI escalation	9.06 %	9.06 %	9.06 %
3	**Employee Cost**	**9.26**	**10.10**	**11.01**

EPPL requests to allow Employee Cost of Rs. 9.26 Crore, Rs.10.10 Crore and Rs. 11.01 Crore for FY 2023-24, FY 2024-25 and FY 2025-26 respectively.

4.8 EPPL vide ref no EPPL/ PSERC_PSPCL/20230721 dated 21.07.23 submitted additional submission stating that during the pendency of this Petition, the Commission came out with an order dated 01.06.2023 in the Suo -Motu Petition No. 56 of 20222. On the issue of Employee Expense towards operation and maintenance expenses, this Commission by its above referred order dated 01.06.2023 in the Suo - Motu Petition No. 56 of 2022, has held as follows:

"***Commission's Analysis***

Employee's Expenses

3.11 ……….

3.13 The Commission notes that comparison has been attempted by the Petitioner as shown in table no.7 with other Hydro Electric Projects. However, it is more than evident that there is hardly any similarity between the data of these plants. They are widely divergent and hence not comparable and thus *not considered for comparison. Thus, the Commission does its own analysis and follows the notified regulations.*

3.13.1 The Commission also notes that the justification given by EPPL for lower employee cost for FY 2021-22 is not in order considering the submissions regarding details of number of employees given in Table No 6 of this order. The employee cost for FY 2020-21 of Rs.8.31 Crore is not justified keeping in view the number of employee submitted in Table No.6 even if a few senior level employees were working at corporate office.

3.13.2 The Commission in its order dated 09.03.2021 in Petition no 16 of 2020 for 2nd MYT Control Period of FY 2020-21 to 2022-23 had determined baseline values of other employee cost amounting to Rs 5.69 Crore for FY 2020-21. The Commission does not consider it prudent to allow the said baseline value of other employee cost as it will put an additional burden on the consumers considering the submissions of EPPL on the issue in this Petition, whereas only 10 employees (including class I to class IV) have been shown to be working in FY 2020-21. Accordingly, the Commission considers Rs 1.50 Crore as baseline value of other employee cost for FY 2020-21.

…………

3.20 Accordingly, the Commission determines the employee cost for FY 2020-21 and FY 2021-22 as per Regulation 8.2(d)(O&M expenses) on normative basis as under:

Table No. 11: Other employee cost determined for True up of FY 2020-21 and FY 2021-22

Sr. No	***Particulars***	***FY 2020-21***	***FY 2021-22***
1	*Employee Cost (excluding terminal benefits)* *Baseline values*	*1.50*	*1.55*
2	*WPI & CPI escalation*	*3.1566%*	*9.06206%*
3	***Other Employee cost***	***1.55***	*1.69*

Table No. 12: Employee cost determined for True up of FY 2020-21 and FY 2021-22

Sr.No	***Particulars***	***FY 2020-21***	***FY 2021-22***
1	*Other employee cost*	*1.55*	*1.69*
2	*Terminal benefits*	*0.07*	*0.47*
3	***Total employee cost***	***1.62***	***2.16***

Therefore, Commission allows employee cost of Rs 1.62 Crore and Rs. 2.16 Crore for FY 2020-21 and FY 2021-22 respectively."

4.9 EPPL further submitted that the Petitioner vide its submission dated 22.11.2022 in the Petition No. 56 of 2022, stated that as per its audited accounts for FY 2020-21 and FY 2021-22, the actual expenses incurred towards Employee Cost were Rs. 8.49 Crore and Rs. 2.12 Crore respectively. The Petitioner in the said Petition further submitted that as per audited annual accounts, the actual employee Cost was Rs. 6.41 Crore for FY 2019-20 and Rs. 8.49 Crore for FY 2020-21.

4.10 EPPL stated that in its reply dated 07.01.2023 in Petition No. 56 of 2022, it had provided justification for lower Employee Costs in FY 2021-22 in comparison to previous years. The Greenko Group acquired the Project in the beginning of FY 2021-22. Post-acquisition, restructuring of employees was the sole reason for low Employee Costs during FY 2021-22. Many employees belonging to Senior management for corporate level work had resigned during the transition phase.

4.11 EPPL reiterated that the Employee Expenses for the full year i.e. FY 2022-23 has now increased to Rs. 7.89 Crore. EPPL further submitted that during the FY 2022-23, it has inducted many employees and now the head counts of the employees has been increased.

4.12 EPPL submitted that the strength of the employees given in Table no. 13 of instant petition/ Table 6 of the Order dated 01.06.2023, are for employees working at site and it does not include the strength of employees working at corporate level.

4.13 EPPL further submitted that an argument given by the PSERC in its order dated 01.06.2023 that since the employees cost of FY 2022-23 is not shown in the accounts of the company taken over for which tariff is being determined, thus the commission disallows the cost with the same not being in accounts of the company. If that is considered as true, then PSERC should have considered Rs. 8.49 Crore for FY 2020-21 and Rs. 7.88 Crore for FY 2022-23, as actual cost incurred as per the accounts.

4.14 EPPL further submitted that the Petitioner's hydro power plant activities, other than the project operation, was being handled by the employees employed at the corporate level in EPPL in FY 2019-20 and FY2020-21.

Table no 4: Number of Employees for FY 2019-20 (site and corporate level employees)

S No	Month	Head Count
1	Apr'19	47
2	May'19	47
3	June'19	47
4	July'19	48
5	Aug'19	46
6	Sep'19	40
7	Oct'19	39
8	Nov'19	38
9	Dec'19	36
10	Jan'20	36
11	Feb'20	36
12	Mar'20	37

Table no 5: Number of Employees for FY 2020-21 (site and corporate level employees)

S No	Month	Head Count
1	Apr'20	37
2	May'20	37
3	Jun'20	37
4	Jul'20	37
5	Aug'20	37
6	Sep'20	37
7	Oct'20	35
8	Nov'20	35
9	Dec'20	34
10	Jan'20	34
11	Feb'20	34
12	Mar'21	32

4.15 EPPL stated that during the transition phase i.e. in FY 2021-22 total number of employees the head counts for FY 2021-22 reduced drastically.

Table no 6: Number of employees for the year 2022-23 are as under:

S No	Month	Corporate Office	Plant	Total Head Count
1	Apr'22	23	10	33
2	May'22	24	11	35
3	Jun'22	25	11	36
4	July'22	27	11	38
5	Aug'22	28	12	40
6	Sep'22	28	12	40
7	Oct'22	33	12	45
8	Nov'22	33	12	45
9	Dec'22	34	12	46
10	Jan'23	33	12	45
11	Feb'23	33	12	45
12	Mar'23	33	12	45

4.16 EPPL further submitted that the Employee Expenses of similar size HEP of the Petitioner's affiliate company in the State of Himachal Pradesh where the Petitioner's Malana-II HEP is located. M/s Greenko Budhil Hydro Power Project Limited (GBHPPL) has developed a 70 MW (2x35 MW) Hydro Electric Power Project in the State of Himachal Pradesh. The GBHPPL had executed a PPA for 70 MW capacity with the distribution licensee of the State of Uttarakhand i.e. Uttarakhand Power Corporation Limited (UPCL) and had initiated scheduling of power w.e.f. 01.12.2015. This project is also like Malana-II project falls under the cost-plus regime and its tariff is being determined under Section 62 of the Act, regularly by the Uttarakhand Electricity Regulatory Commission (UERC). The Hon'ble UERC vide its Order dated 30.03.2023 approved Annual Fixed Cost (AFC) (True-Up) for the last year of the 3rd Control Period i.e. FY 2021-22 and AFC for the new Control Period i.e. FY 22-23 and FY 23-24.

Table no 7: The Employee Expenses as determined by UERC :

Financial Year	**Particulars**	**Employee Expenses allowed by UERC in Rs. Crore**
FY 2021-22	True-up	Rs. 5.57 Crore As against Rs. 7.99 Crore actual incurred
FY 2022-23	Annual Performance Review (APR)	Rs. 7.00 Crore
FY 2023-24	Annual Revenue Requirement (ARR)	Rs. 7.80 Crore

4.17 EPPL reiterated that since the Greenko group has borne the employee cost of FY 2021-22 during the transition period, it was the sole reason for lower employee cost reflected in the EPPL's Annual Accounts of FY 2021-22. In subsequent years, an increase in employee costs (unaudited accounts) will get reflected in the audited accounts. Therefore, the revision of the employee cost amounting to Rs 5.69 Crore for FY 2020-21, already fixed by this Commission in its order dated 09.03.2021 in Petition no 16 of 2020 for 2nd MYT Control Period of FY 2020-21 to 2022-23, by the order under review is an error apparent on the face of the record.

4.18 EPPL request the commission not to consider the revised base value for employee cost as determined in the Order dated 01.06.2023 in Suo-Motu Petition 56 of 2022 and re-determine the employee cost for FY 20-21 and 21-22 afresh and approve Rs. 7.88 Cr. as actual incurred for FY 2022-23.

Table no 8: Calculation of Employee Cost for FY 2023-24 to FY 2025-26

(Rs in Crores)

Particulars	FY 2023-24	FY 2024-25	FY 2025-26
Baseline value including terminal benefit	7.88	8.59	9.19
Index / WPI & CPI escalation	9.06%	9.06%	9.06%
Employee Cost	8.59	9.38	10.22

Repairs & Maintenance (R&M) Expenses

4.19 EPPL submitted that R&M expenses has been linked to K factor and WPI index. K is the constant (expressed in %) governing the relationship between R&M and Gross Fixed Assets.

4.20 For computing K factor, based on the audited/projection accounts for the previous year, EPPL has analysed R&M expenses & GFA, as given in the following table:

Table No.9: Computation of K for 3rd Control Period (FY2023-24 to FY 2025-26

(Rs. Crore)

Particulars	**FY 2020-21**	**FY 2021-22**	**FY 2022-23**	**Average**
Opening GFA	850.97	854.60	860.83	855.47
Closing GFA	854.60	860.83	866.69	860.71
Average GFA	852.79	857.72	863.76	858.09
R&M Expenses	10.63	9.96	10.74	10.44
K Factor (R&M as a % of Avg GFA)	**1.25%**	**1.16%**	**1.24%**	**1.22%**

4.21 EPPL submitted that actual R&M expenses for FY 2020-21 and FY 2021-22 as per the audited financials are at Rs. 10.63 Crore and Rs. 10 Crore respectively. It also matches with the R&M expenses derived from the GFA of respective years using K factor shown above.

4.22 EPPL has considered K factor of 1.22% for determination of R&M expenses for 3rd Control Period. Accordingly, EPPL has projected R&M expenses as under:

Table No.10: R&M Expenses submitted by EPPL for the 3rd Control Period (FY 2023-24 to FY 2025-26)

(Rs Crore)

Sr. no	**Particulars**	**FY 2023-24**	**FY 2024-25**	**FY 2025-26**
1	Opening GFA	866.69	878.59	887.10
2	Closing GFA	878.59	887.10	894.53
3	Average GFA	872.64	882.85	890.82
4	K Factor	1.22%	1.22%	1.22%
5	(Avg GFA * K Factor)	10.62	10.74	10.84
6	WPI Increase	13.00%	13.00%	13.00%

Sr. no	Particulars	FY 2023-24	FY 2024-25	FY 2025-26
7	R&M Expenses after WPI Increase	12.00	12.14	12.25
8	Add: Audit & License Fee	-	-	-
9	**Total R&M Expenses**	**12.00**	**12.14**	**12.25**

4.23 EPPL has requested that the Commission may allow R&M expenses of Rs. 12 Crore, Rs. 12.14 Crore and Rs. 12.25 Crore for FY 2023-24, FY 2024-25, and FY 2025-26 respectively.

4.24 EPPL also requested to allow any expenditure on account of Fee for determination of tariff and audit fee, on actual basis in terms of note 7 of 25.1 of the PSERC MYT Regulation 2022.

Administrative & General (A&G) Expenses: -

4.25 EPPL submitted that A&G expenses as per annual accounts for FY 2017-18, 2018-19, 2019-20 incurred at Rs. 9.13 Crore, Rs. 8.17 Crore and Rs. 7.45 Crore respectively. A&G Expenses as per the annual accounts of FY 2020-21 and FY 2021-22 are at Rs. 9.31 Crore and Rs. 5.03 Crore respectively. EPPL further submitted that in FY 2020-21, the project was taken over by Greenko Group and during the transition period various activities could not be taken up. Moreover, prevalence of COVID 19 (Global Pandemic), had hindered taking up any major works during the FY 2020-22 period as mobilization of manpower was difficult.

4.26 EPPL submitted that PSERC in its order dated 09.03.2021 approved A&G Expenses for 2nd Control period at Rs. 8.72 Crore, Rs. 8.94 Crore and Rs. 9.16 Crore for FY 2020-21, FY 2021-22, and FY 2022-23 respectively.

4.27 EPPL submitted that considering the above it is reasonable to consider Rs. 9.31 Crore as A&G expenses actually incurred during FY 2020-21 as baseline value for determination of A&G Expenses for the next control period. Accordingly, A&G Expenses for 3rd Control Period are as under:

Table No.11: A&G Expenses submitted by EPPL for the Control Period

(Rs Crore)

Particulars	**FY 2023-24 (Projections)**	**FY 2024-25 (Projections)**	**FY 2025-26 Projections**
A&G Expenses (Base)	9.31	10.15	11.07
CPI: WPI Index (50:50)	9.06%	9.06%	9.06%
Total A&G Expenses	**10.15**	**11.07**	**12.08**

4.28 EPPL submitted further, as per the proviso to Regulation 25 (1) note 7 of the PSERC Tariff Regulations 2022, that any expenditure on account of license fee, initial or renewal, fee for determination of tariff and audit fee shall be allowed on actual basis, over and above the A&G expenses approved by the Commission.

4.29 EPPL requested to allow A&G expenses of Rs 10.15 Crore, Rs. 11.07 Crore and Rs. 12.08 Crore for FY 2023-24, FY 2024-25 and FY 2025-26 respectively.

Table No.12: Total O&M Expenses submitted by EPPL for 3rd Control Period

(Rs Crore)

Sr. No	Particulars	FY 2023-24	FY 2024-25	FY 2025-26
1	R&M Expenses	12.00	12.14	12.25
2	A&G Expenses	10.15	11.07	12.08
3	Employee Expenses	9.26	10.10	11.01
4	**Total O&M Expenses**	**31.41**	**33.31**	**35.34**

4.30 EPPL requested to allow O & M expenses (i.e Employee Costs+ R & M Costs + A & G Costs) of Rs 31.41 Crore, Rs. 33.31 Crore and Rs. 35.34 Crore for FY 2023-24, FY 2024-25, and FY 2025-26 respectively.

PSPCL's submission

4.31 PSPCL stated vide reply dated 24.08.2023 that the Petitioner under the garb of making Additional Submissions has in fact sought for a review of the order dated 01.06.2023 passed by this Commission in Suo-Moto Petition No. 56 of 2022. This is impermissible.

4.32 PSPCL submitted that the averments now sought to be raised by the Petitioner by way of the present Additional Submission have already been agitated, argued, and considered by this Commission while passing order dated 01.06.2023 in Suo-Moto Petition No. 56 of 2022.

4.33 PSPCL stated that this Commission *vide* order dated 01.06.2023 has duly considered the contention of Petitioner namely, comparison with other hydro-electric projects, justification given by the Petitioner for lower employee cost, restricting of employees post acquisition and other reasons. This Commission has rejected the same reasons which are sought to be canvassed by the Petitioner by way of the present

Additional Submissions. Relevant extract of the order dated 01.06.2023 is reproduced below:

> *"3.13* ***The Commission notes that comparison has been attempted by the Petitioner as shown in table no.7 with other Hydro Electric Projects. However, it is more than evident that there is hardly any similarity between the data of these plants. They are widely divergent and hence not comparable and thus not considered for comparison****. Thus, the Commission does its own analysis and follows the notified regulations.*
>
> *3.13.1* ***The Commission also notes that the justification given by EPPL for lower employee cost for FY 2021-22 is not in order considering the submissions regarding details of number of employees given in Table No 6 of this order. The employee cost for FY 2020-21 of Rs.8.31 Crore is not justified keeping in view the number of employee submitted in Table No.6 even if a few senior level employees were working at corporate office.****"*

4.34 PSPCL further stated that the claims of the Petitioner are therefore barred by the principles of res-judicata. It is stated that the principles of res-judicata bars consideration of matters directly in issue and identical with those which had been earlier raised and after full contest, decided on merits by a competent court in any other proceeding.

4.35 PSPCL stated that in the present case identical reasoning has given by the Petitioner in Suo-Moto Petition No. 56 of 2022 which after full contest has been decided against the Petitioner. It needs no reiteration that the only remedy against dismissal of an issue lies by way of a review or an appeal thereof. Therefore, the Petitioner ought to have filed either a review against the order dated 01.06.2023 or should have assailed the same in appellate proceedings. Having failed to take either of the two remedies in law available to it, the Petitioner cannot now seek review of the order dated 01.06.2023 by way of Additional Submissions.

4.36 PSPCL further stated that EPPL in the Additional Submissions has sought to impugn the findings of this Commission in order dated 01.06.2023 *qua* employee cost not shown in the accounts of the company. This is impermissible. It is stated that the Petitioner has misunderstood the entire scope of the present proceeding and has equated the same with that of an appellate proceeding.

4.37 PSPCL also stated that EPPL in the Additional Submissions has requested this Commission to not consider the revised base value for employee cost as determined in the order dated 01.06.2023 and has curiously sought for a redetermination for employee cost for FY 2020-21 and 2021-22 afresh. This is impermissible. From the contentions as raised by the Petitioner it is clear that the Petitioner is seeking for a redetermination of a parameter already decided. It is stated that such an exercise can only be undertaken in appellate proceedings under Section 111 of the Electricity Act, 2003.

4.38 PSPCL submitted that the issues as raised by the Petitioner by way of the present Additional Submissions are no longer *res-integra,* and the comparison as sought to be drawn by the Petitioner with that of other hydro-electric project is incorrect.

4.39 PSPCL further submitted that the Petitioner has simply relied on the change in management for the escalation of employee cost. PSPCL submitted that the change in management is an internal decision of the

Petitioner and any cost escalation on account of the same ought not to be allowed and otherwise to be subjected to strict prudence check.

4.40 PSPCL further reiterated that the Petitioner by way of the present additional submissions is seeking for a review of the order dated 01.06.2023 and as such the submissions ought not to be even taken on record.

4.41 PSPCL submitted that the above submissions of PSPCL be taken on record and the unjust claims of the Petitioner ought to be rejected.

Commission's Analysis

Employee's Expenses

4.42 The O&M expenses for the 3rd Control Period has been projected as per the Regulation 25 of the PSERC MYT Regulations, 2022. The Regulation has been reproduced as under:

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

O&Mn = (R&Mn + EMPn + A&Gn) x (1-Xn)

Where,

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

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

A&Gn –Administrative and General Costs of the Applicant 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."

Terminal liabilities

4.43 The Terminal benefits expenses are to be determined as per Regulation25 of PSERC MYT Regulations, 2022(as amended from time to time). Relevant note of Regulation 25 of MYT Regulations, 2022 is reproduced below 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."

4.44 The employee cost is considered in two parts -Terminal benefits and other employee cost. EPPL has not claimed terminal benefits separately for third MYT period (FY 2023-24, FY 2024-25 and FY 2025-26). 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 same shall be reviewed during true up of respective years.

4.45 Regulation 8.1 of PSERC MYT Regulations, 2022 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."

4.46 The Commission again notes that comparison has been attempted by the petitioner with other hydro electric projects with which there is hardly any similarity rather are divergent and hence not considered for comparison. This issue has already been determined and this method of additional submissions cannot be used as a means of reopening an already decided issue.

4.47 The Commission agrees with the submission of PSPCL that the Petitioner cannot be allowed to try and review the Commission's order dated 01.06.2023 in Suo moto Petition of 56 of 2022 by way of filing additional submissions. The Petitioner is bared from doing so in this manner. Suo Moto Petition no.56 of 2022 was taken up by the Commission due to the failure of the Petitioner to file the Petition in time. The Commission notes as earlier noted in Petition no 56 of 20222 that the justification given by EPPL for lower employee cost of FY 2021-22 is not in order. The Commission observes that there is no set pattern or justification for variation during the second Control Period due to which the Commission in petition no 56 of 2020 had revised the baseline values and allowed Rs 1.50 Crores as other employee cost in

True up of FY 2020-21 and Rs 1.69 Crores in true up of FY 2021-22.The Commission maintains these baselines values already determined and only allows escalation of WPI and CPI on other employee cost for FY 2022-23 onwards on these baseline values.

4.48 Whole Sale Price Index (WPI) and Consumer Price Index(CPI) for the full year of FY 2022-23 are available. The Commission has considered the WPI & CPI of 12 months of FY 2021-22 and FY 2022-23 for working out the increase/decrease in WPI and CPI as per table given below:

Table No. 13: Computation of Escalation Index for FY 2022-23

Period	FY 2021-22	FY 2022-23	Increase/Decrease
CPI Index (April- March)	356.064	377.616	6.05284%
WPI Index (April- March)	139.408	152.525	9.40881%

INDEX n/INDEX n-1 = **(0.5*6.05284) +(0.5*9.40881) = 7.73082774%**

4.49 The Commission considers escalation of **7.73082774%** for FY 2022-23 for determination of other employee cost for the 3rd Control Period which shall be reviewed at the time of true up of the respective years. Accordingly, other employee cost determined by the Commission provisionally for FY 2022-23 is as under:

Table No.14: Other Employee Cost determined by the Commission for FY 2022-23

(Rs.Crore)

Sr.No	Particulars	Amount
1	Other Employee determined in Petition no.56 of 2022 for true up of FY 2021-22	1.69
2	WPI & CPI escalation for FY 2022-23(Table no.13)	7.7308277%
3	**Other Employee cost for FY 2022-23**	**1.82**

4.50 The normative other employee expenses and total employee expenses for the 3rd MYT control period is thus calculated as follows:

Table No.15: Employee Cost determined by the Commission for the 3rd Control Period (FY 2023-24 to FY 2025-26)

(Rs.Crore)

Sr.No	Particulars	FY2023-24	FY 2024-25	FY 2025-26
1	Other Employee cost (Baseline value)	1.82	1.96	2.11
2	Escalation during the year	7.730827%	7.730827%	7.730827%
3	**Total Employee Cost**	1.96	2.11	2.28

Administrative and General Expenses (A&G)

4.51 EPPL has requested that Rs 9.31 Crores be considered as baseline expenses for FY 2023-24 based on annual audited accounts for FY 2020-21. The Commission in its order dated 09.03.2021 in Petition no 16 of 2020 for 2nd MYT Control Period of FY 2020-21 to 2022-23 had determined baseline values of Administrative & General expenses for FY 2020-21 amounting to Rs 8.50 Crore for FY 2020-21 after considering the A&G expenses on figures approved by the

Commission in the past, the last three years audited /provisional accounts, estimate of the expected figures for the relevant year, industry benchmark/norms and other factors. Audit and ARR fee are to be allowed separately on actual basis. Further the commission in order dated 01.06.2023 in Petition no 56 of 2022 allowed escalation of 3.1566% and 9.06206 % for true up of FY 2020-21 and FY 2021-22 respectively, thereby determining Rs.9.56 Crore as A&G expenses for FY 2021-22. Therefore, the Commission decides to consider Rs.9.56 Crore for further determination of A&G expenses which shall be reviewed at the time of true up of the respective years.

4.52 The inflation factor used for escalating the A&G expenses is considered as per table no.13 above i.e. 7.730827% for FY 2022-23 and 3rd Control Period which shall be reviewed during the true up of respective years.

4.53 The Commission determines A&G expenses (provisionally) for FY 2022-23 as under subject to true up:

Table No.16: A&G expenses determined by the Commission for FY2022-23

(Rs.Crore)

Sr.No	Particulars	Amount
1	A&G expenses as per True up of FY 2021-22	9.56
2	Escalation during the year(Table no.13)	7.730827%
3	**A&G Expenses for FY 2022-23**	**10.30**

4.54 EPPL has not claimed Audit and License fee separately. The Commission allows Audit and License fee A&G at Rs. 0.13 Crore approved in true up of FY 2021-22 in Petition no.56 of 2022 which shall be reviewed during the true up of respective years. Thus, A&G expenses approved by the Commission for the 3rd Control Period as under:

Table No.17: A&G Expenses approved by the Commission for 3rd Control Period

(Rs. Crore)

Sr. No.	Particulars	FY 2023-24	FY 2024-25	FY 2025-26
1.	A&G Expenses (Baseline values)	10.30	11.10	11.95
2.	Inflation Factor(Table no.13)	7.730827%	7.730827%	7.730827%
3.	**A&G Expenses**	**11.10**	**11.95**	**12.88**
4	Audit & ARR fee	0.13	0.13	0.13
5	**Total A&G expenses**	**11.23**	**12.08**	**13.01**

Repair & Maintenance Expenses(R&M)

4.55 As per Regulation 25.1 of PSERC MYT Regulations 2022, the R&M expenses are to be determined as follows:

"(i) ***R&Mn= K*GFA*WPIn/WPIn-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.*

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

4.56 The Commission decides to provisionally determine R&M expenses of FY 2022-23 in order to determine k factor for the 3rd Control

Period. The opening GFA is considered as per the closing GFA approved in the True-up of FY 2021-22 in Petition no.56 of 2022.The Commission in its order dated 09.03.2021 in Petition no 16 of 2020 had provisionally approved capital expenditure and capitalization of Rs.0.20 Crore for FY 2022-23 for construction of new bridge. No claim on this account has been made by EPPL in FY 2022-23. Therefore, addition/deletion to GFA for FY 2022-23 has been considered as nil. K factor has been considered at 0.982% as approved in Petition No.16 of 2022 for 2nd MYT period. The inflation factor (WPI) used for escalating the R&M expenses is considered as per table no.13 above i.e.9.40881% for FY 2022-23. R&M expenses for FY 2022-23 is calculated as follows which shall be reviewed at the time of true up of FY 2022-23:

Table 18: Determination of R&M expenses for FY 2022-23(provisionally)

(Rs. Crore)

Sr. No.	**Particulars**	**Amount**
1	Opening GFA (as on 01.04.2022)	851.39
2	Addition/deletion of Assets	0.00
3	Closing GFA (as on 31.03.2023)	851.39
4	Average GFA	851.39
5	K factor	0.982%
6	R&M Expenses with k factor	8.36
7	Escalation factor(WPI)(Table no.13)	9.40881%
8	**R&M expenses for FY 2022-23**	**9.15**

4.57 The Commission in its order dated 01.06.2023 in Petition no. 56 of 2022 has determined R&M expenses for the true up of FY 2020-21 and FY 2021-22 at Rs.8.47 Crore and Rs 9.45 Crore respectively. Further, the Commission has provisionally determined R&M expenses for FY 2022-23 at Rs. 9.15 Crore as per table no.18 above. Average GFA of FY 2020-21 and FY 2021-22 as approved in Petition no.56 of 2022 was Rs. 851.18 Crore and Rs.851.39 Crore respectively. Therefore, on the basis of the above the K factor for the 3rd Control Period is determined as under:

Table No.19: Calculation of K factor for 3rd Control Period (Rs. Crore)

Sr. No.	Particulars	FY 2020-21	FY 2021-22	FY 2022-23	Average
1.	Average GFA	851.18	851.39	851.39	851.32
2.	R&M Expenses	8.47	9.45	9.15	9.02
3.	**K factor(2/1)**	0.99509%	1.1095%	1.07471%	1.05992%

As per MYT Regulations, K factor @1.05992% determined above shall be applicable for the 3rd control Period. However, this shall be revisited at the time of true up of FY 2022-23.

4.58 The Commission has considered capitalization of Rs.0.61 Crore for FY 2023-24 and nil for both FY 2024-25 and FY 2025-26 as per para 3 above which will be reviewed during true up of the respective years. Accordingly, the R&M Expenses for the 3rd Control period is determined as follows by considering inflation factor (WPI) of 9.40881% (Table no.13) which shall be reviewed during true up of the respective years:

Table No. 20: R&M Expenses approved by the Commission for the 3rd Control Period

(Rs. Crore)

Sr. No.	Particulars	FY 2023-24	FY 2024-25	FY 2025-26
1	Opening GFA	851.39	852.00	852.00
2	Addition during the year	0.61	0.00	0.00
3	De-capitalization during the year	0.00	0.00	0.00
4	Closing GFA	852.00	852.00	852.00
5	Average GFA	851.70	852.00	852.00
6	k factor	1.05992%	1.05992%	1.05992%
7	R&M Expenses with k factor	9.03	9.03	9.03
8	Escalation factor (WPI)	9.40881%	9.40881%	9.40881%
9	**Total R&M Expenses**	**9.88**	**9.88**	**9.88**

4.59 Thus, the Commission approves O&M expenses for the 3rd MYT Control Period as under subject to true up for the respective years:

Table No. 21: O&M Expenses for EPPL of 3rd MYT Control Period

(Rs. Crore)

Sr.No	Particulars	FY 2023-24	FY 2024-25	FY2025-26
1	Employee Expenses (Table no. 15)	2.43	2.58	2.75
2	A&G Expenses (Table no. 17)	11.23	12.08	13.01
3	R&M Expenses (Table no.20)	9.88	9.88	9.88
4	**Total**	**23.54**	**24.54**	**25.64**

5.0 Depreciation

EPPL's Submissions:

5.1 EPPL submitted that depreciation has been calculated as per Regulation 21 of PSERC MYT Regulations, 2022.

5.2 EPPL further submitted that according to these provisions, depreciation shall be calculated annually as per the 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. EPPL has estimated depreciation by applying the above said provisions on the average GFA excluding depreciation on the land.

5.3 The rate of depreciation is considered @ 4.97 % as per MYT Orders dated 03.09.2019, 09.03.2021 and 23.08.2022 for the relevant Control Period i.e., FY 2020-21 to FY 2022-23. Accordingly, EPPL is considering the similar rate of depreciation for the next MYT Control Period i.e. FY 2023-24 to FY 2025-26.

5.4 The depreciation charges for the control period are given in the following table:

Table No. 22: Depreciation for the Control Period submitted by EPPL

(Rs. Crore)

Particulars	**FY 2023-24 (Projection)**	**FY 2024-25 (Projection)**	**FY 2025-26 (Projections)**
Opening Gross Fixed Assets (Excluding Land Cost)	866.69	878.59	887.1
Add: Additional Capitalization (Excluding Land Cost)	11.9	8.51	7.43
Less: De capitalization of Assets	0	0	0
Closing Gross Fixed Assets	878.59	887.1	894.53
Average Gross Fixed Assets	872.64	882.85	890.82
Average Value of Land and Land rights	12.57	12.57	12.57
Average GFA excluding land	860.07	870.28	878.25
Rate Depreciation	4.97%	4.97%	4.97%
Depreciation Charges	42.75	43.25	43.65

5.5 EPPL requests PSERC to allow depreciation charges of Rs. 42.75 Crore for FY 2023-24, Rs. 43.25 Crore for FY 2024-25 and Rs. 43.65 Crore for FY 2025-26.

PSPCL's Submission

5.6 PSPCL has not offered any comments.

Commission's Analysis

5.7 Regulation 21 of the PSERC MYT Regulations, 2022 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 in 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."

5.8 The Commission determines the depreciation for the 3rd Control period as per Regulation 21 stated above. The Opening GFA is considered as per the Closing GFA approved by the Commission in the true up of FY 2021-22. The Commission has considered nil additions to GFA for FY 2022-23 which shall be reviewed during true up of FY 2022-23. Rate of depreciation for FY 2022-23 has been considered as 4.97% as approved in the true up of FY 2021-22 in Petition no.56 of 2022 , which shall be reviewed during true up of FY 2022-23.The depreciation for FY 2022-23 is thus calculated as under:

Table No 23: Determination of Depreciation for FY 2022-23 (provisionally)

(Rs.Crore)

Sr. No.	Particulars	Amount
A	**Spillover Schemes**	
1	Opening GFA (as on 01.04.2022)	850.95
2	Addition/deletion of Assets	0.00
3	Closing GFA (as on 31.03.2023)	850.95
4	Average GFA	850.95
5	Average value of Land& Land rights	12.75
6	Average GFA net of land & land rights	838.38
7	Rate of depreciation	4.97%
8	**Depreciation**	**41.67**
B	**New Schemes**	
1	Opening GFA (as on 01.04.2022)	0.44
2	Addition/deletion of Assets	0.00
3	Closing GFA (as on 31.03.2023)	0.44
4	Average GFA	0.44
5	Average value of Land & Land rights	0.00
6	Average GFA net of land & land rights	0.44
7	Rate of depreciation	4.97%
8	**Depreciation**	**0.02**
9	**Total Depreciation (A+B)**	**41.69**

5.9 The Commission has considered the addition of GFA at Rs.0.61 Crore for FY 2023-24 and nil for FY 2024-25 and FY 2025-26 as per para 3 above. The rate of depreciation of 4.97% as approved during True-Up of FY 2021-22 is considered for FY 2023-24 and FY 2024-25 (upto 11.07.2024) for spill over schemes and 4.97% for new schemes which shall also be reviewed during true up of the respective years.

5.10 As per Regulation 21.5 of PSERC MYT Regulations 2022, 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. EPPL started its Commercial operation on 12.07.2012 and will complete 12 years on 11.07.2024. The useful life being 35 years as per PPA, therefore, the balance life is 23 (35-12) years for depreciation .

5.11 As per Regulation 21.2 of PSERC MYT Regulations 2022, the residual value of the asset shall be considered as 10% and depreciation shall be allowed upto a maximum of 90% of historical capital cost of the asset. The Commission has allowed/considered depreciation of 59.57% up to 11.07.2024 and balance depreciation of 30.43% (90%-59.57%) shall be spread over to balance useful life of the assets. Considering the remaining useful life of the assets as 23 years as stated above, the provisional depreciation rate works out to be 1.32% (30.43/23) per annum with effect from 12.07.2024, which shall be reviewed at the time of true up of respective years. The commission has also noted that there has been a gradual addition of Rs.13.70 Crores of assets from the date of commercial operation for which deprecation will be adjusted at the time of true-up on furnishing of fixed assets register.

5.12 Based on the above, the depreciation for Spillover and New Schemes for EPPL is as under:

Table No. 24: Depreciation approved by the Commission for the 3rd Control period

(Rs. Crore)

Particulars		**FY 2023-24**	**FY 2024-25**	**FY 2025-26**
(I)	**Spillover Schemes**			
1.	Opening GFA(Net of Land & Land rights)	850.95	850.95	852.00
2.	Add: Additions to GFA during the year	0.00	0.00	0.00
3.	De-capitalisation during the year	0.00	0.00	0.00
4.	Closing GFA	850.95	850.95	852.00
5	Average GFA	850.95	850.95	852.00
6	Less: Land	12.57	12.57	12.57
7	Average GFA	838.38	838.38	838.38
8	Rate of Depreciation	4.97%	4.97%(upto 11.07.2024) 1.32%(from 12.07.2024 onwards)	1.32%
9	**Depreciation**	**41.67**	**19.59**	**11.07**
(II)	**New Schemes**			
1	Opening GFA (excluding land and land rights)	0.44	1.05	1.05
2.	Add: Additions to GFA during the year	0.61	-	-
3.	Less: Decapitalization of Runner	-	-	
4	Closing GFA	1.05	1.05	1.05
5	Average GFA	0.75	1.05	1.05
6	Rate of Depreciation	4.97%	4.97%	4.97%
7	**Depreciation**	**0.04**	**0.05**	**0.05**

Accordingly, the Commission approves the depreciation for the 3rd Control period as under:

Table No. 25: Depreciation approved by the Commission for the 3rd Control period

(Rs. Crore)

Particulars		**FY 2023-24**	**FY 2024-25**	**FY 2025-26**
1.	Opening GFA (Net of Land & Land rights)	851.39	852.00	852.00
2.	Add: Additions to GFA during the year	0.61	0.00	0.00
3.	Less: Decapitalization during the year	0.00	0.00	0.00
4.	Closing GFA	852.00	852.00	852.00
5	Average GFA	851.70	852.00	852.00
6	Less land	12.57	12.57	12.57
7	Average GFA	839.13	839.43	839.43
8	**Depreciation**	**41.71**	**19.64**	11.12

6.0 Interest and Finance Charges

EPPL's Submissions:

6.1 EPPL submitted that Regulation 23 of PSERC MYT Regulations, 2022 provides for Interest on Loan Capital.

6.2 EPPL further submitted that interest expenditure on account of long-term loans depends on the outstanding loans, repayments, and prevailing interest rates on the outstanding loans. EPPL has considered the estimated outstanding loans as on March 31,2023 as opening loan balance for FY 2023-24. The proposed additional capitalization/capital investment has been considered during the Control period. The interest expenses have been computed considering repayment of actual loans and applicable interest rate on such loans.

6.3 EPPL stated that it has considered additional capitalizations as per provisions in the Capital Investment Plan for the FY 2023-24 to FY 2025-26 as submitted in petition no. 54 of 2022 in the matter of approval of Business Plan and Capital Investment Plan, which is yet to be approved by the PSERC.

6.4 As per PSERC regulations, the computation of interest on loan is based on the following:

a. The opening gross normative loan as on 01.04.2023 has been considered.
b. The weighted average rate of interest has been worked out on the basis of the actual loan repayment schedule.
c. The repayment for the control period i.e., FY 2023-24 to FY 2025-26 has been considered equal to the depreciation allowed for that year.
d. The interest on loan has been calculated on the normative average loan of the year by applying the weighted average rate of interest.

6.5 Based on the actual interest to be payable by EPPL for the control period @ 12.25% p.a. for FY 2023-24 to FY 2025-26, the rate of interest on loan capital for new investments is as per Regulation 23.2 and is calculated as under:

Table No 26: Applicable Rate of Interest on Long Term Loan on new investment for the Control Period

Sr. No.	Particulars	FY 2023-24 to FY 2025-26

1.	Actual Rate of interest as on FY 2022-23	12.25%
2.	SBI one year MCLR as on April of relevant Year (as on April 2022)	7.00%
3.	SBI one year MCLR as prevailing Year (as on 15.11. 2022)	8.05%
4.	Margin (4 = 1-3)	5.25%
5.	Rate of Interest	13.30%

6.6 EPPL submitted that as per PSERC MYT Regulations 2022, the Interest on long term loans is calculated at Table below:

Table No. 27: Interest on Long Term Loan for the Control Period (Rs Crore)

Sr. No.	Particulars	FY 2023-24	FY 2024-25	FY 2025-26
1	Opening Capital Cost	866.68	878.58	887.09
2	Add: Additional Capitalisation	11.90	8.51	7.43
3	Less: Decapitalisation	0.00	0.00	0.00
4	Closing Capital Cost (A)	878.58	887.09	894.52
5	Gross Normative Loan on existing opening capital cost (A)	606.68	615.01	620.96
6	Less: Cumulative Repayment (B)	443.84	486.58	529.84
7	Net Loan Opening (A-B)=C	162.84	128.42	91.13
8	Less: Repayment during the year (D) (Depreciation of Assets)	42.75	43.25	43.65
9	Addition due to additional Capitalization during the year (E)	8.33	5.96	5.20
10	Closing Loan Balance of Year (F = C-D+E) For FY 2019-20 and Separate calculations for additional capitalisation from FY 2020-21	120.09	85.17	47.48
11	Average Loan	141.47	106.80	69.30
12	Weighted Average Rate of Interest on Loan	12.25%	12.25%	12.25%
13	Rate of Interest on Loan on new Investment	13.30%	13.30%	13.30%
14	Interest on Loan on existing Investment (X)	17.33	13.08	8.49
15	Interest on Loan for New Investment (Y)	1.11	0.79	0.69

Sr. No.	Particulars	FY 2023-24	FY 2024-25	FY 2025-26
16	Total Interest Cost (Z = X+Y)	18.44	13.87	9.18
17	Finance Charges	0.05	0.05	0.05
18	Total Interest and Finance Charges	18.49	13.92	9.23

6.7 EPPL requests that the Finance charges of Rs. 0.05 Crore may be allowed provisionally for FY 2023-24, FY 2024-25 & FY 2025-26.

6.8 EPPL requested to allow Interest on Loan of Rs. 18.49 Crore for FY 2023-24, Rs. 13.92 Crore FY 2024-25 & Rs. 9.23 Crore FY 2025-26 as per the provision of PSERC MYT Regulations 2022.

PSPCL's Submission

6.9 PSPCL has not offered any comments.

Commission's Analysis:

6.10 The Commission determines the Interest on loan capital for the 3rd Control Period as per Regulation 23 of the PSERC MYT Regulations, 2022. It is reproduced as under:

"23.1. 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.

23.2. 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 SBIMCLR.*

23.3. There payment 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.

23.4. 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.

23.5. 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."

6.11 The Opening of loan for the Spillover and new schemes are considered as per the Closing approved by the Commission for FY 2021-22 in Petition no.56 of 2022. Long term loans for FY 2022-23 for new as well as spillover schemes are calculated as under which shall be reviewed at the time of true up of FY 2022-23. The repayment of loan is considered equal to depreciation allowed for the corresponding year. The Commission calculates closing balance of spillover as well as new schemes for FY 2022-23 as under:

Table No. 28: Calculation of Balance of Long Term Loans for FY 2022-23 (provisionally)

(Rs.Crore)

Sr. No.	Particulars	Amount
A	**Existing Loans**	
1	Opening Loan (as on 01.04.2022)	194.57
2	Addition of Loans	0.00
3	Less: Repayment of Loan(Table No.23)	41.67
4	**Closing balance of loan (as on 31.03.2023)**	**152.90**
B	**New Loans**	
1	Opening Loan (as on 01.04.2022)	0.28
2	Addition of Loans	0.00
3	Less: Repayment of Loan(Table No.23)	0.02
4	**Closing balance of loan (as on 31.03.2023)**	0.26

6.12 The rate of interest on loan capital for new investments is as per Regulation 23.2 and is calculated as under:

Table No. 29: Calculation for rate of interest on loan for new investments for FY 2023-24

Sr. No.	Particulars	Rate
1	Actual Interest rate (True up of FY 2021-22)	12.25%
2	SBI 1 yr MCLR (as on 1st April 2023)	8.50%
3	SBI 1 yr MCLR (as on 15.08.2023)	8.55%
4	Margin (4=1-3)	3.70%

5	**Interest on loan Capital (1+4)**	**12.20%**

The above rate of interest for new investments will be applicable for the entire 3rd Control period and shall be reviewed during true up of respective years.

6.13 For the Spillover schemes i.e. for existing loans, the rate of interest on loan capital is as per Regulation 23.1 and is considered as 12.25% as approved during the True up for FY 2021-22 in Petition no.56 of 2022 and shall be reviewed during the true up of respective years. As per regulation 23.3 of PSERC MYT Regulation 2022, the repayment of loan is considered equal to depreciation allowed for the corresponding year.

6.14 The Commission in para no.3 above has provisionally allowed Capital expenditure of Rs.0.61 Crore for FY 2023-24 and Nil for both FY 2024-25 and FY 2025-26. Accordingly, addition of loans for FY 2023-24 is Rs.0.43 (70% of 0.61) Crore and Nil for FY 2024-25 and FY 2025-26 for new schemes.

6.15 The Commission allows finance charges of Rs.0.05 Crore each for the 3rd Control Period as claimed by EPPL which shall be reviewed during true up of the respective years. Interest charges on long term loans for 3rd Control Period is determined as under:

Table No.30: Interest on loan for Spillover schemes for the 3rd Control period

(Crore)

Sr. No	Particulars	FY 2023-24	FY 2024-25	FY 2025-26

1.	Opening balance of loan(Table no 28)	152.90	111.23	91.64
2.	Add: Receipt of loan during the year	0.00	0.00	0.00
3.	Less: Repayment of loan (Table no. 24)	41.67	19.59	11.07
4.	Closing balance of loan	111.23	91.64	80.57
5.	Average Loan	132.07	101.44	86.10
6	Rate of Interest	**12.25%**	**12.25%**	**12.25%**
7.	**Interest Charges**	**16.18**	**12.43**	**10.55**

TableNo.31: Interest on loan for New schemes for the 3rd Control period

(Rs. Crore)

Sr. No	**Particulars**	**FY2023-24**	**FY2024-25**	**FY 2025-26**
1.	Opening balance of loan(table no 28)	0.26	0.65	0.60
2.	Add: Receipt of loan during the year	0.43	0.00	0.00
3.	Less: Repayment of loan (Table no.24)	0.04	0.05	0.05
4.	Closing balance of loan	0.65	0.60	0.55
5.	Average Loan	0.46	0.63	0.57
6	Rate of Interest	**12.20%**	**12.20%**	**12.20%**
7	**Interest Charges**	**0.05**	**0.08**	**0.07**

Table No. 32: Interest on loan approved by the Commission for the 3rd Control period

(Rs. Crore)

Sr. No.	Particulars	FY 2023-24	FY 2024-25	FY 2025-26
1.	Opening balance of loan	153.16	111.88	92.24
2.	Add: Receipt of loan during the year	0.43	0.00	0.00
3.	Less: Repayment of loan during the year (Table no.25)	41.71	19.65	11.12
4.	Closing balance of loan	111.88	92.24	81.12
5.	Average Loan	132.52	102.06	86.68
6.	**Interest Charges**	**16.23**	**12.51**	**10.62**
7	Finance charges	0.05	0.05	0.05
8	**Total interest & finance charge**	**16.28**	**12.56**	**10.67**

7.0 Return on Equity (RoE)

EPPL's Submission

7.1 EPPL submitted that Regulation 20 of PSERC MYT Regulations, 2022 provides for recovery of Return on Equity and Regulation 19 of PSERC MYT Regulations, 2022 provides for Debt-Equity Ratio.

7.2 EPPL further submitted that the Commission in its Order dated 27.11.2013 has noted that this project is a run of the river project with pondage, pondage capacity in terms of hours of operation at contracted capacity for peaking power is four hours. The total equity invested in the project is Rs. 318.10 Crore. As mentioned in the above para, the closing Gross Fixed Asset for FY 2022-23 (Revised Estimates) is arrived at Rs. 866.69 Crore.

7.3 EPPL stated that it may be seen that the closing GFA /Capital Cost for FY 2022-23 is Rs. 866.69 Crore and that additional capitalization incurred during FY 2023-24 is Rs. 11.90 Crore, Rs. 8.51 Crore for FY 2024-25 and Rs 7.43 Crore for FY 2025-26 are proposed to be incurred towards additional capitalization.

7.4 EPPL further stated that based on the PSERC MYT Regulations 2022, and considering the additional capitalization projected to be incurred during FY 2023-24 to FY 2025-26, the total equity eligible for determination of tariff and Return on Equity @16.5% for each of the years during the control period is as shown in the Table below:

Table No. 33: Return on Equity submitted by EPPL for the Control Period

(Rs in Crore)

Sr. No	Particulars	FY 2023 -24 (Projections)	FY 2024-25 (Projections)	FY 2025-26 (Projections)
1	Opening Capital Cost	866.69	878.59	887.10
2	Additional Capitalization	11.90	8.51	7.43
3	Less: De-Capitalization of assets	-	-	-
4	Closing Capital Cost	878.59	887.10	894.53
5	Equity (30% of the Opening capital cost)	260.01	263.58	266.13
6	Add: Addition during the year (30% of Additional Capital Expenditure)	3.57	2.55	2.23
7	Less: Decapitalization of Assets (30% of the decapitalization amount)	-	-	-
8	Closing Balance of Equity	263.58	266.13	268.36
9	Average Equity (Considered for computing ROE)	261.79	264.85	267.24
10	Rate of return on Equity	16.50%	16.50%	16.50%
11	**Return on Equity**	43.20	43.70	44.10

EPPL has requested the Commission to allow Return on Equity of Rs. 43.20 Crore for FY 2023-24, Rs. 43.70 Crore for FY 2024-25 and Rs. 44.10 Crore for FY 2025-26.

PSPCL's Submission

7.5 PSPCL has not offered any comments.

Commission's Analysis:

7.6 The Commission determines the Return on Equity for the Control Period in accordance with Regulation 19 and 20 of PSERC MYT Regulations, 2022 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.
19.2. New Projects – For capital expenditure projects declared under commercial operation on or after the effective date:
a. A Normative debt-equity ratio of 70:30 shall be considered for the purpose of determination of Tariff;
b. In case the actual equity employed is in excess of 30%, the amount of equity for the purpose of tariff determination shall be limited to 30%, and the balance amount shall be considered as normative loan;
c. In case, the actual equity employed is less than 30%, the actual debt-equity ratio shall be considered;

d. The premium, if any raised by the Applicant while issuing share capital and investment of internal accruals created out of free reserve, shall also be reckoned as paid up capital for the purpose of computing return on equity subject to the normative debt-equity ratio of 70:30, provided such premium amount and internal accruals are actually utilized for meeting capital expenditure of the Applicant's business.

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."*

7.7 The Commission has approved closing equity of Rs 255.42 Crore for FY 2021-22 in Petition no.56 of 2022.The Commission has not considered any addition to the loan during FY 2022-23, therefore the closing equity for FY 2023-24 is also considered to be Rs. 255.42 Crore which shall be reviewed during true up of FY 2022-23.

7.8 The Commission, in para no.3 above, has allowed Capitalization of Rs.0.61 Crore for FY 2023-24 and nil for both FY 2024-25 and FY 2025-26. Accordingly, addition of equity for FY 2023-24 is Rs.0.18 (30% of 0.61) Crore and Nil for FY 2024-25 and FY 2025-26.

7.9 The Commission determines Return on Equity @16.50% on the average equity for the year which is calculated as under:

Table No.34: Return on Equity approved by the Commission for the 3rd Control Period (FY 2023-24 to FY 2025-26)

(Rs. Crore)

Sr. No	Particulars	FY 2023-24	FY 2024-25	FY 2025-26
1.	Opening Equity	255.42	255.60	255.60
2.	Add: Addition to equity during the year	0.18	0.00	0.00
3	Less: De-Capitalization of Runner	-	-	-
4	Closing Equity	255.60	255.60	255.60
5	Average Equity	255.51	255.60	255.60
6	Rate of RoE	16.50%	16.50%	16.50%
7	**Return on Equity**	**42.16**	**42.17**	**42.17**

The Commission, thus, approves Return on Equity of Rs.42.16 Crore, Rs. 42.17 Crore and Rs.42.17 Crore for FY 2023-24, FY 2024-25 and FY 2025-26 respectively.

8.0 Non-Tariff Income

EPPL's Submission

8.1 EPPL submitted that as per the audited accounts of the past years, non-tariff income from interest earned on investments is Rs. 0.42 Crore. EPPL further submitted that extracts of Regulation 27.1 of PSERC (Terms and Conditions of Determination of Generation, Transmission, Wheeling and Retail Supply Tariff) Regulations, 2022 is as below:

"27.1. Following components of income shall be treated as non tariff income for the generation, transmission and distribution business, as applicable:

…….

i. Interest on investments, fixed and call deposits and bank balances;

……."

8.2 EPPL submitted that interest earning investments as reflected in the audited financial statements for FY 2019-20 have been done out of the retained earnings (Return on Equity to the developer) of the entity. When RoE is realized on the Capital Investment made by the entity, the developer can either take out that amount from the hydro project company in the form of dividends to its shareholders or it can invest the amount in fixed term deposits in the account of the hydro project company. However, when the developer's retained earnings are invested in fixed term deposits there will be an interest income component on the same, which otherwise could have been distributed to the shareholders. The current tariff regulations consider this interest earned on retained earnings to the developers as Non-tariff Income which is not judicious as the income received here is on account of foregoing of dividend income by the shareholders unlike income from some non-generation activity earning such as revenue from hoardings or advertisements in the premises of the plant etc.

8.3 EPPL stated that when this interest earned is considered as Non-Tariff Income and is reduced from the Annual Fixed Cost, then it effectively reduces the regulated RoE component to the shareholders of the project company and leads to realizing lower RoE than envisaged by the regulations.

8.4 EPPL further stated that the Non-tariff income on account of investments made out of retained earnings be allowed to be retained by the petitioner by issuing necessary amendments to the said regulations. Such provisions are already provided by other state regulators such as Uttarakhand Electricity Regulatory Commission in their Tariff Regulations of 2015, 2018 and 2021, extract of which is shown below:

> "*46. The amount of non-tariff income relating to the Generation Business as approved by the Commission shall be deducted from the Annual Fixed Charges in determining the Net Annual Fixed Charges of the Generation Company.*
>
> *Provide that the Generation Company shall submit full details of its forecast of nontariff income to the Commission in such form as may be stipulated by the Commission from time to time.*
>
> *……………..*

Provided that the interest earned from investments made out of Return on Equity corresponding to the regulated business of the Generating Company shall not be included in Non-Tariff Income."

EPPL has requested the Commission to enable a similar provision in the current regulations to exclude interest earned from the investments made out of Return on Equity corresponding to the regulated business to be excluded from Non-Tariff Income.

PSPCL's Submission

8.5 PSPCL submitted that it is the Petitioner' case that *de hors* the applicable regulations, the interest earned on fixed deposits ought to be excluded from non-tariff income. This in misconceived. The Petitioner has also prayed for an amendment in the regulations by way of the present petition. This is also misconceived. It is stated that under no stretch of the imagination can the Petitioner seek an amendment of regulations within the scope of the present Petition.

8.6 PSPCL has further submitted that the Regulation 27.1 is apt in its application. It is the decision of the Petitioner not to share the RoE realized through dividends and invest the same in Fixed Term Deposits. Any interest on the same is bound to be included as Non-Tariff Income.

Commission's Analysis:

8.7 Non-Tariff Income is to be determined as per Regulation 27 of PSERC MYT Regulations 2022. Any amendment in the present regulations by way of the present petition cannot be entertained. Also, the Commission agrees with PSPCL that the declaration of dividends is the internal decision of the Petitioner. The Commission will follow the notified

Regulation 27 of the MYT Regulation on the issue

The Commission, thus, approves Rs.0.42 Crores as Non-Tariff income for 3rd Control Period by way of interest earned on investments for each year provisionally. However, the issue will be revisited during the True-up of respective years based on the actual interest income reflected in the Annual Audited Accounts.

9.0 Income Tax

EPPL's Submission

9.1 EPPL submitted that as Regulation 23 of PSERC MYT Regulations, 2019 provides for income tax which is reproduced hereunder:

23.1 Obligatory taxes, if any, on the income of the Generating Company or the Licensee or the SLDC from its core/licensed business shall be computed as an expense and shall be recovered from the customers/consumers:

Provided that tax on any income other than return on equity shall not constitute a pass through component in the tariff and tax on such other income shall be payable by the Generating Company or the Licensee or the SLDC:

Provided that income tax shall be allowed as per actual income tax paid or income tax payable on return on equity, whichever is lower.

23.2. The benefits of tax holiday and the credit for carrying forward losses applicable as per the provision of the Income Tax Act, 1961 shall be fully passed on to the customers/consumers.

23.3. The penalty, if any, arising on account of delay in deposit of tax or short deposit of tax amount shall not be claimed by the Generating Company or the Licensee or the SLDC, as the case may be."

9.2 EPPL further submitted that this Commission in its MYT Regulations, 2022 removed the above referred Regulation 23. Further, Regulation 20 of the PSERC MYT Regulations 2022, clearly states that the Return on Equity shall be computed at the base rate of 16.5% for storage type hydro generating stations. This is in line with the Regulation 30 of the Hon'ble CERC Terms and Conditions of Tariff Regulations 2019. Regulations 31 of the CERC Terms and Conditions of Tariff Regulations 2019 states that the base rate of return on equity as allowed by the CERC under Regulation 30 shall be grossed up with the effective tax rate of the respective financial year. The Regulation 31 of the CERC Terms and Conditions of Tariff Regulations 2019 is reproduced as under:

"

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

(i.e. income from business other than business of generation or transmission, as the case may be) shall be excluded for the calculation of effective tax rate.

(2) Rate of return on equity shall be rounded off to three decimal places and shall be computed as per the formula given below: Rate of pre-tax return on equity = Base rate / (1-t) Where "t" is the effective tax rate in accordance with clause (1) of this Regulation and shall be calculated at the beginning of every financial year based on the estimated profit and tax to be paid estimated in line with the provisions of the relevant Finance Act applicable for that financial year to the company on pro-rata basis by excluding the income of non-generation or non-transmission business, as the case may be, and the corresponding tax thereon. In case of generating company or transmission licensee paying Minimum Alternate Tax (MAT), "t" shall be considered as MAT rate including surcharge and cess.

Illustration-

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

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

(a) Estimated Gross Income from generation or transmission business for FY 2019-20 is Rs 1,000 crore;

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

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

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

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

9.3 EPPL has stated that the generating company shall true up the grossed up rate of return on equity at the end of every financial year based on actual tax paid together with any additional tax demand including interest thereon, duly adjusted for any refund of tax including interest received from the income tax authorities pertaining to the tariff period 2019-24 on actual gross income of any financial year. The Regulation 31 also states that any under-recovery or over-recovery of grossed up rate on return on equity after truing up, shall be recovered or refunded to beneficiaries or the long-term customers, as the case may be, on year to year basis. Thus, the said regulation clearly shows that Income Tax is to be allowed for inclusion in the Annual Fixed Charges on the income of the generating business of a generating company.

9.4 EPPL has further stated that a similar provision was there in the Regulation 23 of the PSERC MYT Regulations 2019 but is missing in PSERC MYT Regulations 2022. At the same time the said Regulations do not specifically deny the same. In such cases, Section 61 of the Act needs to be referred.

9.5 EPPL submitted that Section 61 of the Electricity Act, 2003 mandates that SERCs while specifying terms and conditions for determination of Tariff shall be guided by the principles and methodology specified by the Central Commission for determination of the tariff applicable to generating companies and transmission licensees, Tariff Policy as well as the generation business to be conducted on commercial principles.

Section 61. (Tariff regulations):

The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely: -

(a) the principles and methodologies specified by the Central Commission for determination of the tariff applicable to generating companies and transmission licensees;

(b) the generation, transmission, distribution and supply of electricity are conducted on commercial principles;

(c) the factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments;

(d) safe guarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner;

(e) the principles rewarding efficiency in performance;

(f) multi year tariff principles;

(g) that the tariff progressively reflects the cost of supply of electricity and also, reduces cross-subsidies in the manner specified by the Appropriate Commission;

(h) the promotion of co-generation and generation of electricity from renewable sources of energy;

(i) the National Electricity Policy and tariff policy:

………………………..

9.6 EPPL further submitted that Clause 5.11 of Tariff policy lays down the following framework for performance based cost of service regulation in respect of aspects common to generation, transmission as well as distribution. The Clause 5.11 (h) states framework for Multi year Tariff, which read as under:

<u>5.11 h) Multi Year Tariff</u>

1) Section 61 of the Act states that the Appropriate Commission for determining the terms and conditions for the determination of tariff shall be guided, inter-alia, by Multi-Year Tariff (MYT) *principles. The framework should feature a five-year control period. The initial control period may, however, be of 3 year duration for transmission and distribution if deemed necessary by the Regulatory Commission on account of data uncertainties and other practical considerations. In cases of lack of reliable data, the Appropriate Commission may state assumptions in MYT for first control period and a fresh control period may be started as and when more reliable data becomes available.*

2) In cases where operations have been much below the norms for many previous years, the initial starting point in determining the revenue requirement and the improvement trajectories should be recognized at "relaxed" levels and not the "desired" levels. Suitable benchmarking studies may be conducted to establish the "desired" performance standards. Separate studies may be required for each utility to assess the capital expenditure necessary to meet the minimum service standards.

3) Once the revenue requirements are established at the beginning of the control period, the Regulatory Commission should focus on regulation of outputs and not the input cost elements. At the end of the control period, a comprehensive review of performance may be undertaken.

4) Uncontrollable costs should be recovered speedily to ensure that future consumers are not burdened with past costs. Uncontrollable costs would include (but not limited to) fuel costs, costs on account of inflation, taxes and cess,

variations in power purchase unit costs including on account of adverse natural events.

5) Clear guidelines and regulations on information disclosure may be developed by the Regulatory Commissions. Section 62 (2) of the Act empowers the Appropriate Commission to require licensees to furnish separate details, as may be specified in respect of generation, transmission and distribution for determination of tariff.

9.7 EPPL stated that sub-clause 4 above also shows that the Taxes are part of the Cost to be recovered under Multi Year Tariff Regulations.

9.8 EPPL further stated that as per the provisions of the Income Tax Act, it is liable to pay Minimum Alternate Tax (MAT) for the 3rd Control Period @17.47%. Accordingly, the computed value of tax limited to Tax on ROE claimable under PSERC Tariff Regulations 2019 as follows:

Table No. 35: Income tax on Return on Equity for the 3rd Control Period

(Rs. Crore)

Sr No	Particulars	FY 2023-24	FY 2024-25	FY 2025-26
	MAT Rate(including surcharge & cess)	17.47%	17.47%	17.47%
	ROE Rate	16.50%	16.50%	16.50%
	ROE Rate grossed up	19.99%	19.99%	19.99%
	Average Equity	261.79	264.85	267.24
	Pre Tax ROE (4)*(3) for the purpose of Income tax calculations	52.33	52.94	53.42
	Tax on ROE (5) *(1)	**9.14**	**9.25**	**9.33**

EPPL requested to allow income tax of Rs. 9.14 Crore for FY 2023-24, Rs 9.25 Crore for FY 2024-25 and Rs. 9.33 Crore for FY 2025-26.

PSPCL's Submission

9.9 PSPCL has not offered any comments.

Commission's Analysis

9.10 Income tax has been disallowed in the PSERC MYT Regulation, 2022 through the amendment since the last MYT Regulations have been amended to remove Income tax as being claimable. **Therefore, the Commission allows NIL income tax for the 3rd MYT period as per the ibid Regulations.**

10.0 Interest on Working Capital

EPPL's Submissions:

10.1 EPPL submitted that Regulation 32.1 of PSERC MYT Regulations, 2022 provides for components of Interest on Working Capital Loan in respect of Hydro based Generating stations. Further, Regulation 24.1 determines the rate of interest on working capital & security deposit.

10.2 EPPL has further stated that as per PSERC regulations, the rate of interest on working capital shall be equal to the weighted average rate of interest paid/ payable on loans by the generating company 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 250 basis points, whichever is lower. The interest on working capital is payable on normative basis notwithstanding that the generating company has not taken working capital loan from any outside agency or has exceeded the working capital loan amount worked out on normative basis.

10.3 The Weighted Average Rate of Interest is computed @, 12.25% p.a for 2023-24, FY 2024-25 & FY 2025-26. The 1 Year State Bank of India MCLR is 8.05% p.a as on 01.04.2022.

10.4 EPPL has calculated the interest on working capital for MYT Control Period as per PSERC MYT Regulations 2022. Interest on Working capital is projected at 10.55% for the control period from 2023-24 to FY 2025-26 on components of Working Capital i.e. (Maintenance Spares @ 15% of O&M expenses; O&M expenses for one month and Receivables @ 2 month out of the Annual Fixed Cost) as given in the table below.

Table No. 36: Interest on Working Capital for the Control Period submitted by EPPL

(Rs. Crore)

Sr.No	Particulars	FY 2023-24 (Projections)	FY 2024-25 (Projections)	FY 2025-26 (Projections)
1	Maintenance Spares (15% of the O&M Expenses)	4.71	5.00	5.30
2	Receivables (Two months of the annual fixed cost)	24.66	24.40	24.11
3	O&M Expenses for one month	2.62	2.78	2.95
4	**Total Working Capital**	31.99	32.18	32.35
5	Rate of interest	10.55%	10.55%	10.55%
6	**Interest on Working Capital**	3.37	3.39	3.41

EPPL requests the Commission to allow Interest on working Capital of Rs.3.37 Crore for FY 2023-24, Rs. 3.39 Crore for FY 2024-25 and Rs. 3.41 Crore for FY 2025-26.

PSPCL's Submission

10.5 PSPCL has not offered any comments.

Commission's Analysis:

10.6 The Rate of interest has been computed as per Regulation 24 of the PSERC MYT Regulations, 2022 as reproduced below:

The rate of interest on working capital shall be as per Regulation 24."

***"24.1** 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 250 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."*

10.7 The Commission has computed the amount of working capital as per Regulation 32 of the PSERC MYT Regulations, 2022 specifies as under:

c. Hydro based generating stations: The Working Capital shall cover the following:

i. Maintenance spares @ 15% of operation and maintenance expenses;

ii. Operation & maintenance expenses for 1 month;

iii. Receivables equivalent to 2 months of fixed cost.

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

Table No.37: Rate of Interest on Working Capital approved by the Commission for the 3rd Control Period (FY 2023-24 to FY 2025-26)

(Rs. Crore)

Sr.No	Particular	FY 2020-21
1	Rate of Interest for Working Capital Loans	12.25%
2	SBI 1 year MCLR (as on 01 April 2023)	8.50%
3	Add 250 basis points as per Regulation 24.1	2.50%
4	Rate of interest as per Regulation 24.1 (3+4)	11.00%
5	**Allowable Rate of Interest for Working capital**	**11.00%**

10.9 The above rate of interest is applicable for the 3rd Control period and shall be reviewed during the true up of respective years. The

Commission determines the amount of interest payable on the normative working capital as under:

Table No.38: Interest on Working Capital approved by the Commission for the 3rd Control Period

(Rs. Crore)

Sr. No.	Particular	FY 2023-24	FY 2024-25	FY 2025-26
1	Maintenance spares @15% of O&M (Table No.21)	3.46	3.61	3.77
2	O&M Expenses for one month(Table No.21)	1.92	2.01	2.10
3	Receivables for two months(Table no.39)	20.95	16.75	15.17
4	Total Working Capital	**26.33**	**22.37**	**21.04**
5	Rate of Interest (%)	11.00%	11.00%	11.00%
6	**Interest on Working Capital**	**2 .90**	**2.46**	**2.31**

Thus, the Commission approves working capital requirement of Rs. 26.33 Crore for FY 2023-24, Rs. 22.37 Crore for FY 2024-25 and Rs. 21.04 Crore for FY 2025-26 and interest thereon of Rs.2.90 Crore, Rs.2.46 Crore and Rs. 2.31 Crore for FY 2023-24, FY 2024-25 and FY 2025-26 respectively.

11.0 Annual Fixed Charges for FY 2023-24 to FY 2025-26

11.1 The Annual fixed charges from FY 2023-24 to FY 2025-26, as projected by EPPL and approved by the Commission is summarized in the following table:-

Table No.39: Annual fixed charges for FY 2023-24 to FY 2025-26 approved by the Commission

(Rs Crore)

Sr. No.	Particulars	Submitted by EPPL			Approved by the Commission		
		FY 2023-24	FY 2024-25	FY 2025-26	FY 2023-24	FY 2024-25	FY 2025-26
1	O&M Expenses	31.41	33.31	35.34	23.07	24.07	25.17
2	Depreciation	42.75	43.25	43.65	41.71	19.64	11.12
3	Interest charges	18.49	13.92	9.23	16.28	12.56	10.67
4	Return on Equity	43.20	43.70	44.10	42.16	42.17	42.17
5	Interest on Working Capital	3.37	3.39	3.41	2.90	2.46	2.31
6	Income Tax	9.14	9.25	9.33	0.00	0.00	0.00
7	**Total Expenses**	**148.36**	**146.82**	**145.06**	**126.12**	**100.90**	**91.44**
8	*Less*: Non-Tariff Income	0.42	0.42	0.42	0.42	0.42	0.42
9	**Annual Fixed Charges**	**147.94**	**146.40**	**144.64**	**125.70**	**100.48**	**91.02**

11.2 EPPL shall be entitled for payment of capacity charges and energy charges in accordance with Regulation 44 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (as amended) on matters/ issues/ subjects/points/topics not covered or specified in the PSERC Tariff Regulations.

12.0 Revision in Design Energy

EPPL's Submission:

12.1 As per the Commission's Order dated 15.11.2021 in Petition No. 43 of 2021, EPPL has approached the CEA for a revised study on the hydrology factor of the project as the actual generation from the project is less than the Design Energy for a continuous period of more than four years. EPPL has requested the Commission to allow recovery of energy charge including for the past years, based on the revised Design Energy numbers.

PSPCL's Submission:

12.2 In Petition No. 43 of 2021, EPPL has placed on record a letter from CEA wherein the design energy of the plant has allegedly been downward revised to 326.57 MUs. It is submitted that Petition No. 43 of 2021 is pending adjudication and any recovery of energy should be subject to/based on the decision of the Commission in the said petition.

Commission's Analysis

12.3 The Commission in its order dated 11.07.2023 in Petition No. 54 of 2022 filed by the Petitioner for consideration/approval of its Business Plan including Capital Investment Plan for the 3rd MYT Control Period of FY 2023-24 to FY 2025-26 has observed as under:

2.3…….., on the issue of change in the design energy, the Commission observes that the same is being considered in a separate Petition No. 43 of 2021 filed by EPPL with respect to its dispute with PSPCL on the issue of shortfall energy charges.

Thereafter, vide Order dated 02.08.2023 in Petition No. 43 of 2021, the Commission has held that the revised Design Energy for the Petitioner's project as vetted by CEA shall be considered from the FY 2023-24 onwards.

13.0 SLDC Charges:

EPPL's Submission

13.1 EPPL, while referring to the provisions of the PSERC Regulation, has requested to allow SLDC charges as pass through and payable by PSPCL as and when the relevant Orders from CERC and High Court of HP are submitted. It was further submitted that the Commission vide Order dated 06.11.2012 in Review Petition No. 55 of 2012 has held that the tariff of the Project would be such as would be determined by the Commission. Accordingly, the Petitioner's generation project tariffs are being determined on the cost-plus method and reviewed annually by the Commission under Section 62 of the Electricity Act, 2003, wherein all the costs associated for generation of power are allowed as pass through. Accordingly, PSPCL be directed to pay SLDC fees/charges upon submission of invoices from the HPSLDC.

PSPCL's Submission:

13.2 As per Clause 4.7 of the PSA, EPPL is to bear all applicable RLDC/SLDC charges up-to the delivery point (Banala). Further, it is submitted that the issue which is pending adjudication before the Central Commission and the High Court of Himachal Pradesh is whether the Charor-Banala line is an interstate line or an intrastate line for the purposes of inclusion in the PoC pool and as such has no bearing to the fact that it is the Petitioner which is liable for the SLDC and Transmission Charges.

Commission Analysis

13.3 The Commission observes that the tariff for the Petitioner's project is being determined under Section 62 of the Electricity Act and as per the provisions of PSERC Tariff Regulations. However, the issue whether the Charor-Banala line is an inter-State or an intra-State line is pending adjudication before the Central Commission and the Hon'ble High Court of Himachal Pradesh.

Thus, the Petitioner shall be at liberty to approach the Commission for appropriate orders, after the Hon'ble High Court of Himachal Pradesh and CERC decide the said matter.

14.0 Interest on under–recovered or over-recovered fixed charges:

14.1 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.

14.2 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."

14.3 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 in terms of the above observations and decisions of the Commission.

Sd/-	Sd/-
(Paramjeet Singh) Member	(Viswajeet Khanna) Chairperson

Chandigarh
Dated: 10.10.2023