PUNJAB STATE ELECTRICITY REGULATORY COMMISSION

SITE NO. 3, BLOCK B, SECTOR18-A, MADHYA MARG,CHANDIGARH

Petition No. 01 of 2022
Date of Hearing:14.07.2022
Date of Order: 23.08.2022

Petition for approval of Annual Fixed Cost for 100 MW Malana-II Hydro- Electric Project for Multi Year Tariff (MYT) Control Period (FY 2017-18 to FY 2019-20) for true up of FY 2019-20 under section 62 and 64 of the Electricity Act. 2003 read with Regulation 63 of PSERC (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff), Regulations, 2014 and Multi Year Tariff (MYT) Control Period (FY 2020-21 to FY 2022-23) for Annual Performance Review for FY 2020-21& FY 2021-22 and Projections for FY 2022-23 under section 62 and 64 of the Electricity Act. 2003 read with Regulation 63 of PSERC (Terms and Conditions for Determination of Generation, Transmission, Wheeling and Retail Supply Tariff), Regulations, 2019

AND

In the matter of: Everest Power Private Ltd, 1st House, Bhumian Estate, Nav Bahar Road, Chhota Shimla, Shimla – 170002, (Himachal Pradesh)

.Petitioner

Versus

1. Punjab State Power Corporation Limited. The Mall, Patiala.
2. PTC India Limited.2nd Floor,NBCC Tower,15,Bikaji Kama Place, New Delhi

.Respondents

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

EPPL: Sh. Rakesh Shah Sr. Vice President
Sh. Sushil Ratnaraj M.

PSPCL:	Sh. Amal Nair, Advocate Sh. Rupinderjeet Singh Randhawa, CE/ARR&TR Sh. Ravi Luthra SE/TR-2 Sh. Gurvinder Singh Sr.Xen/TR-5 Sh. Baljinder Pal Singh AE/TR-5
PTC:	None

ORDER

1. M/s Everest Power Private Ltd. (EPPL) a 100 MW Malana- II Hydro Electric Project in Himachal Pradesh has filed petition for true up of FY 2019-20 and Annual Performance Review for FY 2020-21 & FY 2021-22 and Revised estimates for FY 2022-23. EPPL has filed Petition no 01 of 2022 and also filed IA No. 01 of 2022 for condonation of delay in filing the petition for approval of provisional annual fixed cost for FY 2020-21. EPPL has prayed in the petition to:-

   a. Allow the Annual Fixed Cost for True up of FY 2019-20 Rs.156.72 Crore, Annual performance review for FY 2020-21 Rs.168.48 Crore, Annual performance review for FY 2021-22 Rs.167.70 Crore and Revised estimates for FY 2022-23 Rs.164.57 Crore.

   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 Punjab State Electricity Regulatory Commission;

   d. Pass any order as the this commission may deem fit and appropriate under the circumstances of the case and in the interest of justice.

e. Direct PSPCL to pay transmission charges upon submission of invoice(s) from Himachal Pradesh Power Transmission Company Limited as may be directed as per the directions of Hon’ble CERC/ The Hon’ble HPERC as the case may be upon final determination of CERC as to the nature of the transmission line.

f Direct PSPCL to pay SLDC fee/charges upon submission of invoices from Himachal Pradesh State Load dispatch centre as per direction of Hon’ble CERC and HPERC in this regard.

g. Direct PSPCL to pay interconnection facility charges as claimed by HPPTCL upon submission of invoices.

The Commission, vide order dated 14.03.2022, after condoning the delay, admitted the petition, and notice was issued to the respondents to file reply. The Commission observed certain deficiencies in the petition which were conveyed to EPPL vide order dated 14.03.2022. The petitioner was directed to clarify/explain the deficiencies within ten days. The Public notice inviting suggestions/objections was published on 30.03.2022 in The Tribune (English), Punjabi Tribune and Dainik Tribune (Hindi). EPPL filed its reply to the deficiencies on 24.03.2022. PSPCL filed its reply to the petition on 28.04.2022. The public hearing was held on 04.05.2022, however, nobody appeared from the public and EPPL was asked to furnish reply to the additional deficiencies. EPPL has filed rejoinder to the PSPCL reply on 10.05.2022 and reply to additional deficiencies on 11.05.2022. After hearing PSPCL & EPPL on 14.07.2022, the order was reserved,

Observations and Decision of the Commission

The Commission has examined the petition, the reply filed by PSPCL as well as the documents adduced by the parties during hearing. After hearing the parties, the Commission decides as under:

PART- A --- True up for FY 2019-20

2.0 **Capital Expenditure**

2.1 **Capital Expenditure under Balance Deferred Provisions**

The Capital Expenditure provisionally allowed for FY 2019-20 by the Commission in earlier petitions and that now being claimed for true-up in the instant petition, against the balance deferred provisions is as under:

TableNo.1: **Deferred provisions approved for FY2019-20** **(Rs. Crore)**

S. No.	Head	CIP Plan (Petition 24 of 2017)	APR (Petition 16 of 2020)		Now being claimed for True-up
		Allowed	Claimed	Allowed	
1	**Communications** (Blacktopping of approach roads and procurement of snow cleaning equipment, etc.)	2.55	0.49	0.49	0.91
2	**Miscellaneous** (towards procurement of Office Equipment; Tools & Tackles/Machinery and Computers)	-	0.16	-	0.15
3	**Escalation** on Infrastructure and major works	0.0408	0.42	-	-
	Total	**2.5908**	**1.07**	**0.49**	**1.06**

The Commission vide Order dated 09.03.2021 in petition no. 16 of 2020 has provisionally allowed Rs. 0.49 Crore for FY 2019-20 with the observation that it shall be considered after prudence check at the time of true up of FY 2019-20. EPPL's prayer for approval of Rs. 1.06 Crore for true-up of FY 2019-20 is analysed as under:

a) Communications (blacktopping of approach roads and procurement of snow cleaning equipment, earth moving equipment etc.)

EPPL's submissions

2.2 EPPL has submitted that the Commission had allowed the provision of Rs. 0.49 Crore under the head 'Communications' vide Order dated 09.03.2021. However, EPPL has incurred an amount of Rs. 0.91 Crore towards black topping of approach roads during FY 2019-20. The said amount has been mentioned in note 3 of the balance sheet for FY 2019-20 and copies of Bills have been enclosed with the Petition.

PSPCL's comments

2.3 PSPCL submitted that, the petitioner has claimed an amount of Rs. 0.91 Crore towards the blacktopping of approach roads during FY 2019-20 as against the approved amount of Rs. 0.49 Crore. No explanation has been provided as to why excess amount has been spent towards blacktopping of roads. In the absence of cogent reasons provided for the cost escalation, the said escalation ought to be disallowed by the Commission**.**

EPPL's reply:

2.4 In response to PSPCL comments, EPPL has submitted that:

i) The Balance deferred provisions under the heading of "Communication" at the end of FY 2016-17(True-up) was Rs. 3.8545 Crore and the Commission vide its Order dated 30.7.2018 in petition no. 24 of 2017, approved balance deferred provisions under the heading of “Communications” as Rs.1.30 Crore and Rs 2.55 Crore for FY 2018-19 and FY 2019-20 respectively. That against the amount of Rs 2.55 Crore approved for the FY 2019-20, EPPL has actually incurred only Rs. 0.91 Crore and thereby saving an amount of Rs. 1.64 Crore.

The difference is on account of price escalation from agreed contract rates in the year 2005 to that of the year in which the said works have been executed. The said amount has been mentioned in note 3 of balance sheet for FY 2019-20 and copies of bills have been enclosed with the petition.

ii) In Petition 16 of 2020 while provisionally allowing Rs. 0.49 Crore for FY 2019-20, it was specifically noted by the Commission that the same shall be considered after prudence check at the time of true up of FY 2019-20.

Considering the above, EPPL prayed to allow Rs. 0.91 Crore towards additional capitalization for FY 2019-20.

Commission’s Analysis

2.5 The Commission refers to the Order dated 09.03.2021 passed in Petition 16 of 2020, wherein the said issue was deliberated as under:

“2.10 The Commission notes that the amount available under the head ‘Communication’ is Rs. 3.8545 Crore which was allowed by the Commission under balance deferred provisions. Further, vide Order dated 03.09.2019, EPPL was provisionally allowed Rs.0.52 Crore towards black topping of approach road during FY 2017-18 and the balance amount of Rs.0.78 Crore and Rs. 2.55 Crore for FY 2018-19 and 2019-20 respectively.

Now in this petition, EPPL has claimed an amount of Rs. 0.52 Crore incurred in FY 2017-18, 0.49 Crore incurred in FY 2018-19 and 0.49 Crore incurred in FY 2019-20 for black topping of the approach roads. The Commission allows the amount of Rs. 0.52 Crore and Rs. 0.49 Crore for FY 2017-18 and FY 2018- 19 respectively for black topping of approach roads. Further, the amount of Rs. 0.49 Crore is provisionally allowed for FY 2019-20 and shall be considered after prudence check at the time of true up of FY 2019-20.”

The Commission observes that, vide Order 03.09.2019, EPPL was initially allowed Rs. 2.55 Crore for FY 2019-20 under the head Communications. However, in Petition 16 of 2020 filed for Revised Estimates of FY 2019-20, EPPL claimed Rs. 0.49 Crore under the said head and Rs. 0.42 Crore under the escalation head. The Commission provisionally allowed the Capex of Rs. 0.49 Crore for FY 2019-20 with the observation that it shall be considered after prudence check at the time of true-up of FY 2019-20. Now, EPPL has claimed that Rs. 0.91 Crore has been actually incurred with the submission that the difference is on account of price escalation from agreed contract rates in the year 2005. The Commission has verified the actual billed data in the books of accounts.

In view of the above, the Commission approves the amount of Rs. 0.91 Crore towards the head ‘Communications’ for the true-up of FY 2019-20.

b) <u>Miscellaneous (towards procurement of Office Equipment; Tools & Tackles / Machinery and Computers).</u>

EPPL’s submissions

2.6 EPPL submitted that it had incurred the expenditure of Rs. 0.15 Crore towards Office Equipment, Tools & Tackles, Computers & Software and Furniture & Fixtures during FY 2019-20. The said amount has been mentioned in note 3 of the balance sheet for FY 2019-20 and copies of Bills have been enclosed with the Petition.

PSPCL submission

2.7 PSPCL submitted that, the expense under this head has been categorically refused by the Commission vide Order in petition no. 16 of 2020. An expense which has been disallowed by this Commission in the first round cannot be sought for during the time of truing up. The petitioner at the stage of truing up is attempting to reargue its case, which cannot be allowed.

EPPL's reply:

2.8 EPPL submitted that Plant & Machinery, Office Equipment, Computers and Furniture & Fixtures do have a fixed useful life and have to be replaced thereafter for efficient utilization and operations. The items like Weather Monitoring Station, Telemetry Communication System, Laptops & Batteries have degraded in their performance, and so we are forced to replace them. Therefore, it prayed to allow Rs. 0.15 Crore towards additional capitalization for FY 2019-20.

EPPL stated that decapitalization for the FY 2019-20 of Rs. 0.33 Crore is for the same asset classes of Plant & Machinery, Office Equipment, Computers and Furniture & Fixture for which additional capitalization was sought. Without prejudice to the above, if the Commission decided to not allow Rs. 0.15 Crore towards additional capitalization, then we request the

Commission to not consider the decapitalization of Rs.0.33 Crore for the FY 2019-20.

Commission's Analysis

2.9 The Commission refers to the Order dated 09.03.2021 in petition no. 16 of 2020, wherein the said issue has been deliberated as under:

"2.13 ………….. The Commission notes that Regulation 18.2.e of the MYT Regulations, 2014 provides as under:

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

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

*Considering the above, the Commission disallows the entire amount towards purchase of office equipment, plant & machinery, furniture &*fixtures *and computers during the entire MYT period as it is not allowable as per the Regulations."*

Accordingly, the Commission notes that, the issue of miscellaneous expenses stands already deliberated by the Commission in Order dated 09.03.2021 in petition no. 16 of 2020, wherein it was held that the same is not allowable under PSERC MYT Regulations, 2014.

<u>Capital expenditure over and above the approved deferred provisions approved by PSERC Order dated 30.07.2018</u>

a) Up gradation of SCADA System

2.10 **EPPL's Submissions**

EPPL submitted that PSERC vide its Order dated 30.07.2018 in Petition No. 24 of 2017 has allowed over & above the approved deferred provision of Rs. 30.10 Crore. The Commission in its Order dated 30.07.2018 has stated that the additional capital expenditure will be considered on merits when claimed as actual expenditure by EPPL, on submission of audited accounts for the same in the true-up petitions to be filed by EPPL for respective years subject to the provisions in the Regulations and prudence check.

EPPL has incurred an amount of Rs. 0.66 Crore towards upgradation of SCADA System during FY 2019-20. The said amount is mentioned in Note No. 3 of the Balance Sheet of FY 2019-20.

EPPL prayed to consider the same towards additional capitalization over and above the approved deferred provisions for the FY 2019-20.

PSPCL's comments

2.11 PSPCL has not submitted any comment in this regard.

Commission's Analysis

2.12 The Commission refers to the Commission's Order dated 09.03.2021 in petition no. 16 of 2020, wherein the said issue has been deliberated as under:

> *"2.41 The Commission notes that this was not a part of the original CIP. However, there is a direction of Ministry of Power vide its letter No.F.No.1/6/2011-IT-V(236746)dated 09.10.2018 that all power stations are to be cyber security compliant and the cyber security is to be carried out by an empanelled agency. The work for upgradation of SCADA systems has been carried out as per the said directions. As such, the Commission allows the expenditure of Rs. 0.66 crore incurred by EPPL for up gradation of SCADA System in FY 2019-20."*

The Commission approves the said capital expenditure of Rs. 0.66 Crore for up-gradation of SCADA system for the true-up of FY 2019-20.

2.13 **In view of the above, the expenditure allowed in Petition no 16 of 2022 is now trued up and approved. Accordingly, the Capital Expenditure for FY 2019-20 trued-up by the Commission is as under: -**

Table No.2:Capital Expenditure approved for FY2019-20(True-up) (Rs. Crore)

Sr.No.	Head	Claimed by EPPL (Rs. Crore)	Approved by the Commission for True up (Rs. Crore)
A.	**Against Balance deferred provisions**		
	1. Communications (Blacktopping of approach roads and procurement of snow cleaning equipment, earth moving equipment etc.)	0.91	0.91

	2. Miscellaneous (towards procurement of Office Equipment; Tools & Tackles/Machinery and Computers)	0.15	-
	Sub-Total	**1.06**	**0.91**
B.	**Over and above the deferred provisions**		
	Up-gradation of SCADA System	0.66	0.66
Total		**1.72**	**1.57**

2.14 **The Commission considers capitalization equal to capital expenditure allowed in Table No.2 as the expenditure has been incurred and approves capitalization of Rs1.57 Crore for true up of FY 2019-20 after prudence check. EPPL request not to consider decapitalization of Rs.0.33 Crore if this Commission decided not to allow capital expenditure Rs.0.15 Crore on account of Miscellaneous items (para 2.10) is not allowed. Thus, the Commission considers decapitalization of Rs.0.33 Crore as per the annual audited accounts for FY 2019-20.The Gross fixed assets as per capitalization approved for 1st Control Period is as under**:

Table No.3: Gross fixed assets approved by the Commission for 1st Control Period (Rs.Crore)

Sr.No	Particulars	FY 2017-18	FY 2018-19	FY 2019-20
1	Opening Gross Fixed Assets	841.74	844.39	849.73
2	Assets addition during the year	2.65	8.13	1.57
3	Disposal/decapitalization during the year	0.00	2.79	0.33
4	**Closing Gross Fixed Assets**	**844.39**	**849.73**	**850.97**

Note: The Commission considered capitalization equal to capital expenditure allowed during FY 2017-18 and FY 2018-19 in Petition no 16 of 2020.

3.0 Operation and Maintenance Expenses

3.1 Operation &Maintenance expenses comprise of employee cost, Repair &Maintenance and Administrative &General

expenses as per Regulation-26 of PSERC (Terms and Conditions for determination of Generation, Transmission, Wheeling and Retail Supply Tariff) Regulations, 2014.

EPPL's Submission

3.2 EPPL submitted that Operation and Maintenance expenses are determined as per Regulation 26 of the PSERC MYT Regulations, 2014 and its subsequent amendment. Further EPPL submitted that baseline values have been calculated as per Regulation 8.1and 8.2of PSERC MYT Regulations 2014.

3.3 EPPL submitted that as per the Annual Audited Accounts for FY 2019-20, the actual expenses incurred towards employee cost amounts to Rs. 6.41Crore (including terminal benefits of Rs. 0.29Crore). Details of the employee cost for the control period are as under:-

Table No. 4:Detailed Employee Cost claimed by EPPL for FY 2019-20 (Rs. Crore)

Sr.No	Particulars	Amount
A	Employee Cost (Other than C &D)	
1	Salaries (including allowance & Bonus)	5.41
2	Other Allowances	0.00
3	Overtime	0.00
4	Bonus	0.00
5	Generation Incentive	0.16
6	**Sub Total**	**5.57**
B	**Other Costs**	
1	Medical Reimbursement	0.00
2	Travelling Allowance	0.00
3	Leave Travel Assistant	0.15
4	Other Staff Welfare Expenses	0.14
5	Employee's Insurance	0.13
6	**Sub Total**	**0.42**
C	**Apprentice & Other Trainingexpenses**	0.00
D	**Contribution to the Terminalbenefits**	
1	E.L Encashment	0.17
2	P.F. Contribution	0.17
3	Pension	0.00
4	Gratuity	0.08
5	Ex-gratia	0.00

6	**Sub Total**	**0.42**
E	**Grand Total(A+B+C+D)**	**6.41**
F	**Employee expenses capitalized**	0.00
G	**Net employee cost(E-F)**	**6.41**

3.4 EPPL prayed that the Commission may consider and approve the entire employee cost.

3.5 EPPL vide its rejoinder dated 25.07.2022 to the reply filed by PSPCL submitted that it had claimed Rs. 6.41 Crore based on actual expenses incurred terminal benefits of Rs. 0.29 Crore, as per the audited accounts. The Commission had granted with normative amount in the order 09.03.2021 which has adversely impacted financial position of EPPL despite being one of the few HEP plants with least employee cost referred by the respondent (PSPCL). Therefore, the petitioner was constrained to file an appeal before Hon'ble APTEL being DFR 456 of 2021 challenging the true-up order of the Hon'ble Commission dated 09.03.2021.

EPPL further submitted that the Malana-II HEP is having the most competitive number in comparison to the order projects with regard to manpower/MW criteria. EPPL stated that this Commission in its Order dated 09.03.2021 has considered Rs. 5.69 Crore as baseline employee cost based on the cost 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 such factors. Against such amount EPPL has incurred an amount of Rs. 6.12 Crore which is 7.55% higher than the baseline amount which may be acceptable to this Commission. EPPL prayed to allow employee cost of Rs.

6.41 Crore including terminal benefits of Rs. 0.29 Crore for FY 2019-20.

EPPL stated that the Inflation factor for the Control Period as per PSERC MYT Regulations, 2019 works out around 7%. This is grossly inadequate considering even the average rise in salaries and other expenses. The Commission would appreciate that in any industry with poachable talent, it is important that salaries are raised at least at par with the industry average to retain employees. Considering the fact that Employee Expenses form the biggest chunk in the overall operational expenditure, a mere 7% hike in Employee Expenses is grossly insufficient to maintain salaries even at Industry average for the Control period. EPPL prayed to allow escalation Index of 15% instead of the escalation index of 7% for the above said reasons.

PSPCL's Submission:

3.6 PSPCL vide its submission dated 28.04.2022 submitted that the Petitioner has claimed Rs.6.41 Crore as actual expenses incurred towards Employees Cost for FY 2019-20 including terminal benefits of Rs.0.29 Crore. On the contrary this Commission vide Order dated 09.03.2021 passed in Petition No.16 of 2020 had allowed Rs.4.54 Crore as Employee Cost for FY 2019-20 including terminal benefits of Rs.0.05 Crore. PSPCL is not disputing the escalation on Rs. 0.29 Crore so long as the same is subjected to prudence check as terminal benefits are to be allowed on actuals. However, the Petitioner has not provided any explanation on the Employee Cost and that the same may be disallowed subject to prudence check.

Commission's Analysis

3.7 The Employee Cost is to be determined as per Regulation

26.1(ii) of PSERCMYT Regulations,2014 (as amended from time to time). Accordingly, increase in the Consumer Price Index (CPI) and Whole sale Price Index (WPI) over the previous year.

Table No 5: Calculation of INDEX for FY 2019-20

Sr.No.	Particulars	FY2018-19	FY2019-20	Increase (%)
1	Consumer Price Index (CPI)	299.92	322.50	7.53
2	Whole sale Price Index (WPI)	119.79	121.80	1.68

INDEX n/INDEX n-1 = (0.5*7.53) +(0.5*1.68) = **4.60%**

3.8 The Commission vide its order dated 14.03.2022 had asked EPPL to submit on affidavit the details of its employees at its corporate office and at the project site giving the specific requirement/justification of their posting along-with remuneration paid to them for during FY2019-20. The same have been listed in EPPL's submission in para onwards. EPPL has stationed around 16 employees at Project site and 38 in FY 2019-20 at corporate office, New Delhi.

3.9 The Commission vide its order dated 03.09.2019 in Petition No.23 of 2017 had determined the baseline value of other employee cost for FY 2017-18 as Rs.4.09 Crore and allowed other employee cost of Rs.4.29 Crore for true up of FY2018-19.Accordingly,the Commission approves other employee Cost as under:

Table No.6: Other Employee Cost approved by the Commission for FY 2019-20

(Rs. Crore)

Sr. No.	Particulars	Amount
1	Baseline value	4.29
2	WPI and CPI Increase	4.60%
3	**Other Employee cost (1*2)**	**4.49**

3.10 As per Note (4) of Regulation 26.1 of MYT Regulation, 2014 terminal benefits are to be allowed on actual basis. EPPL has claimed Terminal benefits of Rs.0.29 Crore for FY2019-20as per

Annual Audited Accounts.

3.11 EPPL has provided a certificate from its Statutory Auditor which states that Rs.9,63,067 (Rs.0.10 Crore) and Rs.6,18,455 (Rs.0.06 Crore) were paid as full and final settlement of employees as onetime annual payment during FY2019-20, hence considered as terminal benefits. However, the payment of Rs.13,07,627 (Rs.0.13Crore) on account of Ex-gratia, paid during FY 2019-20, relates to existing employees of the company which cannot be considered as Terminal Benefits as these are part of "other employee cost" of EPPL. The Commission approves terminal benefits of Rs.15,81,522 (Rs.9,63,067+6,18,455) i.e.,Rs.0.16 Crore for the true up of FY2019-20.

3.12 **The Commission allows Rs.0.16 Crore as Terminal benefits for FY 2019-20.Thus, the Commission approves Employee cost including Terminal Benefits as Rs. 4.65 (4.49+0.16) Crore for FY 2019-20.**

Repair and Maintenance(R&M) and Administration &General (A&G) Expenses

EPPL's Submission

3.13 EPPL submitted that as per annual audited accounts for FY 2019-20, the actual expenses incurred towards R&M and A&G expenses amounts to Rs.19.47 Crore.

3.14 EPPL further submitted that K factor establishes the relationship between previous fixed assets and the repair & maintenance expenses. EPPL calculated K factor for the first control period as determined by this Commission in order dated 09.03.2021 in Petition no.16 of 2020 as below:

Table No. 7 : Calculation of K factor based on expenses of FY 2019-20 submitted by EPPL (Rs.Crore)

Sr.No	Particulars	FY2017-18	FY2018-19	FY 2019-20	Average
1	Opening GFA	841.74	844.39	849.73	845.29
2	Closing GFA	844.39	849.73	851.13	848.41
3	Average GFA	843.07	847.06	850.43	846.85
4	R&M expenses	10.30	10.49	10.31	
5	K=R&M expense/Average GFA	1.22%	1.24%	1.21%	**1.224%**

3.15 EPPL stated that this Commission in its order dated 09.03.2021 had considered it prudent to consider A&G expenses cost of Rs.8.50 Crore based on figures approved by this Commission in the past, last three years' Audited/ Provisional Accounts, estimates of the expected figures for the relevant year, industry benchmarks/norms and other factors.

3.16 EPPL submitted that as per Regulations, if actual O&M expenses are less than 90% of the normative expenses, this Commission shall true up the O&M expenses during the annual performance review for that year on actual basis. EPPL further submitted the details of the actual O&M incurred by it is tabulated below. The comparison of 90% of the normative O&M, as per applicable MYT Regulations and the actual O&M incurred for FY 2019-20 are also given in the following table along with the O&M expenses eligible for true up for the respective financial years.

Table No. 8 : Particulars of O&M expenditure for FY 2019-20 submitted by EPPL (Rs. Crore)

Sr.No	Particulars	As per Normative	Actual incurred
1	Employee Cost (including terminal benefits)	4.63	6.41
2	Repair & Maintenance expenses	11.61	10.31
3	Administrative & General expenses(including audit &	8.67	9.17

	regulatory fees)		
4	**Total**	**24.91**	**25.88**
5	**@90% of Normative of respective uear**	**22.42**	
6	**Is actual O&M less than 90% of normative O&M**	**No**	

3.17 EPPL stated that as per the proviso to Regulation 26 (1) note 7 of the PSERC Tariff Regulations, 2014, any expenditure on account of license fee, initial or renewal, fee for determination of tariff and audit fee shall be allowed on actuals basis ,over and above the A&G expenses approved by the Commission and prayed to approve an amount of Rs.0.17 Crore for FY 2019-20 on this account.

3.18 EPPL prayed to allow actual O&M expenses incurred (i.e Employee cost + R&M costs + A&G costs) ofRs.25.88 Crore for FY 2019-20 as per the provision of PSERC Regulation,2014.

3.19 EPPL further stated that it has filed an appeal before the Hon'ble APTEL challenging the true up order of PSERC dated 09.03.2021 where actual O&M expenses have been disallowed aggravating the financial position of the company. The normative numbers may be revised at a later stage based on the outcome of the Hon'ble APTEL order.

3.20 EPPL in its rejoinder dated 10.05.2022 to the reply filed by PSPCL submitted that it has claimed Rs.19.48 Crore based on actual expenses as per audited accounts while Commission has granted us with an unrealistic normative amount in the order referred by the respondent (PSPCL). EPPL further submitted that it has filed an appeal before Hon'ble APTEL being appeal no. 456 of 21 challenging the true-up order dated 09.03.2021 by the

PSERC which has impacted adversely financial position of the Petitioner.

EPPL stated that each hydro project is unique in itself depending on the site-specific conditions including geology, topography, accessibility of the site and climatic conditions etc. Further, considering the uniqueness of each of the Hydro Project, CERC adopts the principle of fixing the O&M expenses for each of the project based on the actual cost incurred by them in past financial years and also allowed annual escalation thereon. Thus, it may be stated that even the principle of allowing O&M Expenses on normative basis is also based and dependent on the actual O&M cost incurred by the project in past years. The said principle is continuing for each of the controlling period since fixation of the tariff is being done under the Regulatory Regime.

EPPL further stated that Petitioner further submits that this Commission in its Order dated 09.03.2021 has considered Rs. 8.50 Crore as baseline A&G cost based on the cost 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 such factors. Similarly, R&M cost will come to Rs.10.58 Crore with K-factor of 1.22% and WPI increase at 1.68% for FY 2019-20. Both A&G and R&M costs will come to Rs.19.08 Crore as against claimed amount of Rs. 19.47 Crore which is only 2% higher than the baseline amount which should be acceptable to this Commission. EPPL prayed to allow A&G and R&M cost of Rs. 19.64 Crore including audit fee and fee for determination of tariff of Rs. 0.17 Crore for FY 2019-20.

PSPCL's Submissions:

3.21 PSPCL submitted that the Petitioner has claimed Rs.19.47 Crore towards A&G and R&M expenses for FY 2019-20. It is submitted that the Commission vide Order dated 09.03.2021 passed in Petition No.16 of 2020 had approved Rs.14.94 Crore as A&G and R&M expenses. PSPCL further submitted that on account of lack of any cogent reasons for the escalation in the A&G and R&M expenses the same out to be disallowed by the Commission and should be subject to prudence check. There is no merit in the truing up as sought for by the Petitioner.

Commission's Analysis:

3.22 The Commission determines R&M expenses and A&G expenses as per the following Regulation 26 of PSERC MYT Regulations, 2014, being a part of O&M expenses,

> *"26.1. The O&M expenses for the n^{th} year of the Control Period shall be approved based on the formula shown below:*
>
> $$\mathbf{O\&M_n = (R\&M_n + EMP_n + A\&G_n) \times (1\text{-}X_n)}$$
>
> *Where,*
>
> *$R\&M_n$– Repair and Maintenance Costs of the Applicant for the nth year;*
>
> *EMP_n– Employee Cost of the Applicant for tent year;*
>
> *$A\&G_n$– Administrative and General Costs of the Applicant for the nth year;*
>
> *The above components shall be computed in the manner specified below:*

(i) $R\&M_n + A\&G_n = K*GFA*(WPI_n/WPI_n\text{-}1)$

Where,

- ***'K'*** *is a constant (expressed in%) governing the relationship between R&M and A&G expenses and Gross Fixed Assets (GFA) for the* $_n$*th year. The value of "K" will be specified by the Commission in the MYT order.*
- ***'GFA' is the average value of the Gross Fixed Assets of*** *the nth year.*
- ***'WPI$_n$'*** *means the average rate (on monthly basis) of Wholesale Price Index (all commodities) over the year for the* $_n$*th year.*

***(ii)* $EMP_n = (EMP_n\text{-}1)*(INDEX_n/ INDEX_{n-1})$**

- ***INDEX$_n$****- Inflation Factor to be used for indexing the Employee Cost.*
- *This will be a combination of the Consumer Price Index (CPI) and the Wholesale Price Index (WPI) of* $_n$*th year and shall be calculated asunder*

$INDEX_n = 0.50*CPI_n + 0.50*WPI_n$

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

- ***'CPI$_n$'*** *means the average rate (on monthly basis) of Consumer Price Index (Industrial workers) over the year for the nthyear.*

…….

……..

(iii) X_n isan efficiency factor for $_n$th year

The value of X_n*shall be determined by the Commission in its first MYT order for the Control Period."*

3.23 The Commission had determined K factor as 1.7146% in Petition no.23 of 2017.

3.24 EPPL in its annual audited accounts for FY 2019-20 have shown Operating and other expenses including R&M and A&G

expenses as Rs. 19.64 Crore. The Commission observes that EPPL has booked loss on sale of fixed assets of Rs. 2.20 Crore (included in R&M and A&G expenses). Any profit or loss on disposal of assets is considered as other income/expense, hence is being dealt separately in this order. Similarly, Auditors' remunerations and License fee/tariff determination fee paid to the Commission are also admissible separately on actual basis. Therefore, total O&M expenses taken for comparison of 90% normative with actual is incorrectly worked out by EPPL in Table No.5.

3.25 As per Annual Audited Accounts for FY 2019-20audit fees is Rs 0.12 Crore and Rs.0.05 Crore for tariff determination fee paid to the Commission is allowable. The Commission allows Audit & ARR fee of Rs.0.17(0.12+0.05) Crore for FY 2019-20. Decapitalization of assets has been taken as per Table no.3 on the basis of annual accounts. The Commission determines the R&M and A&G expenses for the True up of FY2019-20.

Table No.9: R&M and A&G expenses allowed by the Commission for FY 2019-20 **(Rs. Crore)**

Sr.No.	Particulars	FY 2019-20
1	Opening GFA	849.73
2	Addition during the year	1.57
3	Less: De-capitalization of assets	0.33
4	Closing GFA	850.97
5	Average GFA	850.35
6	**K factor**	**1.7146%**
7	R&M and A&G expenses	**14.58**
8	WPI Index (as per para 3.14)	1.68%
9	R&M and A&G expenses afterWPI increase(7x8)	14.83
10	Audit &ARR fee	0.17
11	**Total R&M and A&G expenses**	**15.00**

Accordingly, the Commission approves O&M expenses for FY 2019-20 asunder:

Table No. 10: O&M expenses for FY 2019-20 approved by the Commission

(Rs. Crore)

Sr.No	Particulars	Amount
1	Employee Cost	4.65
2	R&M and A&G Expenses	15.00
3	**O&M Expenses**	**19.65**

4.0 **Depreciation**

EPPL's Submission:

4.1 EPPL submitted that depreciation has been determined as per Regulation 21 of PSERC MYT Regulations, 2014.

4.2 EPPL further submitted that depreciation has been 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 as per Regulation 21 of PSERC MYT Regulations, 2014. Depreciation has been estimated by applying the said provision on average GFA excluding depreciation on land.

4.3 EPPL stated that this Commission vide its Order dated 24.05.2018 and 03.09.2019 has approved the capital cost of the Project amounting to Rs. 841.74 Crore for FY 2016-17 and vide Order dated 09.03.2021 has approved the capital cost of the Project amounting to Rs. 849.73 Crore for FY 2018-19.

4.4 EPPL submitted that opening capital cost of Rs.837.16 Crore for FY 2019-20 and Rs.1.73 Crores addition during FY 2019-20 has been taken. Accordingly, Capital Cost amounting to Rs.849.73 Crore has been considered as the capital base for the purpose of control period in the instant case.

4.5 The rate of depreciation considered @ 4.97 % as per True-up Order dated 24.05.2018 for FY 2016-17 of this commission for computing depreciation for the Control Period i.e., FY 2017-18 to FY 2019-20.

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

Table No.11: Depreciation claimed by EPPL for FY 2019-20

(Rs. Crore)

Sr.No	Particulars	Amount
1	Opening GFA (excluding Land cost)	837.16
2	Addition during the year (excluding Land cost)	1.73
3	Less: Decapitalization on Runners/Assets	0.33
4	Closing GFA	838.55
5	Average GFA	837.86
6	Rate of depreciation	4.97%
7	**Depreciation Charges**	**41.64**

4.7 EPPL has requested this Commission to allow depreciation of Rs.41.64 Crore FY 2019-20 as per the provision of PSERC MYT Regulations,2014.

PSPCL's Submission:

4.8 PSPCL has not given any comments in this regard.

Commission's Analysis:

4.9 As regards Depreciation, Regulation-21 of PSERCMYT Regulations, 2014 has been amended vide notification dated 03.02.2016 asunder:

"**21. Depreciation:**

21.1. For the purpose of tariff determination, depreciation shall be calculated in the following manner:

The value base for the purpose of depreciation shall be the capital cost of the assets admitted by the Commission: Provided that land other than the land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset;

Provided further that depreciation shall be calculated after deduction of consumer contributions, capital subsidies/

Government grant

21.2. The cost of the asset shall include additional capitalization.

21.3. The cost shall include foreign currency funding converted to equivalent rupees at the exchange rate prevalent on the date when foreign currency shall actually be availed but not later than the date of commercial operation.

21.4. Depreciation for 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.

21.5. Depreciation for distribution assets and other assets not specified by CERC shall be at the rates notified by the Commission:

Provided that the total depreciation during the life of the asset shall not exceed 90% of the original cost;

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 incase 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 site.

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 prorate basis

4.10 The Commission has considered addition to fixed assets for true up of FY 2019-20 as Rs.1.57Crore and De-capitalization/disposal of assets of Rs. 0.33 Crore has been considered for FY 2019-20as given in Table No.3.

4.11 EPPL in the instant Petition has claimed the rate of depreciation as 4.97% for true up of FY 2019-20on the basis of Annual Audited Accounts. The Commission considers rate of depreciation as 4.97% for FY2019- 20 as claimed by EPPL and allows depreciation for true up of FY 2019-20.

Table No.12: Depreciation allowed by the Commission for FY 2019-20
(Rs.Crore)

Sr.No	Particulars	Amount
1	Opening GFA (Net of Land &Land rights)	849.73
2	Addition during the year	1.57
3	Less: Decapitalization of assets	0.33
4	Closing GFA	850.97
5	Average GFA	850.35
6	Average value of Land & Land rights	12.57
7	Average GFA(Net of land & land rights)	837.78
8	Rate of Depreciation	**4.97%**
9	**Depreciation**	**41.64**

Accordingly, the Commission approves depreciation charges of Rs 41.64 Crore for FY 2019.20.

5.0 Return on Equity

EPPL's Submission:

5.1 EPPL submitted that Regulation 20 of PSERC MYT Regulations, 2014 provides for recovery of Return on Equity.

5.2 EPPL further submitted that total equity invested in the project is Rs.318.10 Crore. EPPL stated that the Project Cost for FY 2018-19(True-up) is approved at Rs. 849.73Crore only. As such the total equity eligible for determination of tariff, as per the provisions of PSERC Regulations, shall be limited to Rs. 254.92 Crore (30% of Rs.849.73Crore).

5.3 EPPL stated that based on the MYT Regulations 2014, and considering additional capitalization incurred during FY 2019-20,thetotal equity eligible for determination of tariff and the Return on Equity @15.50%for the remaining year of1st control period as shown in the following:

Table No.13:Return on Equity claimed by EPPL from FY 2019-20 (Rs. Crore)

Sr. No	Particulars	Amount
1	Opening Capital Cost	849.73
2	Additional Capitalization	1.73
3	Less: Decapitalization of Runners	0.33
4	Closing Capital Cost	851.13
5	Equity (30% of the opening Capitalcost)	254.92
6	Addition during the year (30% of Additional capital expenditure)	0.52
7	Less: Decapitalization in Runners (30% of Decapitalization cost)	0.10
8	Closing balance of equity	255.34
9	Average Equity considered for ROE	255.13
10	Rate of Return	15.50%
11	**Return on Equity**	**39.54**

5.4 EPPL requested to allow Return on Equity of Rs.39.54 Crore for FY 2019-20 as per the provision of PSERC MYT Regulations 2014.

PSPCL Submission:

5.5 PSPCL has not given any comments.

Commission's Analysis

5.6 Regulation 20 of PSERC MYT Regulations, 2014 provides for recovery of Return on Equity which is reproduced hereunder:

"20. RETURN ON EQUITY

Return on Equity shall be computed at the rate of 15.5% on the paid- up equity capital determined in accordance with regulation

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

5.7 Regulation 19 of PSERC MYT Regulations, 2014 provides for Debt-Equity Ratio which is reproduced here 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 Normative debt-equity ratio of 70:30 shall be considered for the purpose of determination of Tariff

a. 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;

b. In case, the actual equity employed is less than 30%, the actual debt-equity ratio shall be considered

c. 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."

5.8 The equity approved by the Commission in its Order dated 09.03.2021 is Rs.254.92 Crore as on 31.03.2019 which is considered as opening balance for FY 2019-20.As per Regulation 20 of PSERC MYT Regulations, 2014, Debt Equity ratio of 70:30 has to be considered. Addition of equity has been worked out as under:

Table No.14: Equity addition during FY 2019-20 **(Rs. Crore)**

Sr. No	Particulars	Amount
1	Assets addition during theyear	1.57
2	Less: -Decapitalization ofAssets	0.33
3	Net addition of assets	1.24
4	Additional equity (30% of netassets addition)	0.37

5.9 Thus, the Commission determines the Return on Equity @ 15.50% on the average paid up equity capital for true up for FY 2019-20 as under: -

Table No.15: Return on Equity for FY 2019-20 determined by the Commission
(Rs. Crore)

Sr. No	Particulars	Amount
1	Opening Equity	254.92
2	Additions during theyear(net)	0.37
3	Closing balance of Equity	255.29
4	Average Equity	255.10
5	Rate of Return	15.50%
6	**Return on Equity**	**39.54**

Accordingly, the Commission approves Return on Equity of Rs.39.54 Crore for FY 2019-20.

6.0 **Interest and Finance Charges**

EPPL's submission:

6.1 EPPL stated that Regulation 24 of PSERC MYT Regulations, 2014 provides for Interest on Loan Capital.

6.2 EPPL submitted that the interest expenditure on account of long-term loans depend on the outstanding loans, repayments, and prevailing interest rates on the outstanding loans. EPPL further stated that it has considered outstanding loans as on March 31, 2019 as opening loan balance for FY 2019-20. The proposed additional capitalization/capital investment have been considered for the Control period. The interest expenses worked out based on repayment of loans and applicable interest rate on such loans.

6.3 EPPL stated that it has claimed Interest on Long Term Loan and Finance Charges amounting to Rs. 45.79Crore for FY 2019-20 and has claimed additional capitalization of Rs. 1.73 Crore for FY 2019-20for calculating Interest on Long Term Loan. Accordingly, Capital Cost amounting to Rs. 849.73Crore for FY 2018-19 has been considered as the capital base for the purpose of control period in the instant Petition. The closing loan for FY2018-19 of Rs 318.69 Crore, is considered as the opening balance of gross normative loan for FY 2019-20.

6.4 EPPL has further submitted that the principle of "actual interest rate or" SBI Advance Rate", whichever is the lower has been followed while calculating the interest on loan. The weighted average rate of interest has been determined @ 13.17% p.a. for FY2019-20 whereas the State Bank of India Advance Rate is 13.80% p.a. as on 1st April,2019, Accordingly,13.17% p.a. has been considered for FY 2019-20 for computing the interest on loan i.e., lower rate of interest of 'actual interest rate' or 'SBI Advance Rate'.

6.5 EPPL submitted that the computation of interest on loan is based on the following:

a. The opening gross normative loan as on 01.04.2019has 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 2017-18 to FY 2019-20 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.

6.6 EPPL further submitted that based on the actual interest paid/payable under various project loan accounts the weighted average rate of interest is determined for the control period @ 13.17% p.a. for FY2019-20.

6.7 EPPL stated that in view of the above and as per PSERC Regulations the Interest on term loans is calculated asunder:

Table No:16: Interest on Long Term Loan claimed by EPPL for FY 2019-20

(Rs.Crore)

Sr.No	Particulars	Amount
1	Opening Capital Cost	849.73
2	Additional Capitalization	1.73
3	Less: De-capitalization of Runners	0.33
4	Closing Capital Cost(A)	851.13
5	Gross Normative loan on openingcapital cost	594.82
6	Less: Cumulative Repayment (B)	276.13
7	Net opening Loan (C) =(A-B)	318.69
8	Less: Repayment during the year(D)	41.64
9	Addition due to additional Capitalization during the year (E)	1.21
10	Less: Decapitalization of Runners(F)	0.23
11	Closing Balance (C-D+E-F)	278.02
12	Average Loan	298.36
13	Weighted Average Rate of Interest	13.17%
14	**Interest on Loans**	**39.22**

6.8 EPPL submitted that it has incurredRs.6.57 Crore towards finance charges for FY2019-20 and has given the following details while replying to the deficiencies dated24.03.2022:-

Table No.17: Finance Charges claimed by EPPL for FY 2019-20

(Rs. Crore)

Sr.No	Particulars	Amount
1	Bank charges	0.02
2	Finance charges	0.01

3.	Annual Review charges	0.06
4.	Carrying cost on differential AFC	4.86
5.	Interest on Over-dues of MSME	1.21
6	Interest on Income tax-234A,234B,234C	0.07
7.	Penal charges-Loan	0.29
8.	Surveillance Fee	0.05
9.	**TOTAL**	**6.57**

6.9 EPPL prayed to allow Interest along-with finance charges of Rs.6.50 Crore on long term Loan as Rs. 45.72(Rs. 39.22+6.50) Crore for FY2019-20 as per the provision of PSERC MYT Regulations, 2014.

PSPCL's Submission:

6.10 PSPCL has not given any comments.

Commission's Analysis

6.11 Regulation 24 of PSERC MYT Regulations, 2014 provides for Interest on Loan Capital which is reproduced here under:

"24. **INTEREST ON LOAN CAPITAL**

24.1 For existing loan capital, interest and finance charges on loan capital shall be computed on the outstanding loans, duly taking into account the actual rate of interest and the schedule of repayment as per the terms and conditions of relevant agreements. The rate of interest shall be the actual rate of interest paid/payable (other than working capital loans) on loans by the licensee or the State Bank of India Advance Rate as on April 1 of the relevant year, whichever is less.

24.2 Interest and finance charges on the actual loan capital for new investments shall be computed on the 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 or the State Bank of India Advance Rate as on April 1 of the relevant year, whichever is less.*

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

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

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

6.12 The Closing loan balance of Rs.318.69 Crore was determined by the Commission in True-Up of FY 2018-19, which is considered as the opening loan balance for FY 2019-20. Asset addition of Rs.1.57 CroreFY2019-20 has been approved in this order. De-capitalization/disposal of assets of Rs.0.33 Crore for FY 2019-20 has been considered as per theannualauditedaccounts.70% of assets addition has been considered to be sourced from debt i.e., Rs.0.87(1.57-0.33x70%) Crore for FY 2019-20 respectively as loan. Repayment of loan equal to depreciation allowed has been considered on normative basis as per Regulation 24.3 of PSERC MYT Regulations, 2014. The Petitioner claimed the weighted average rate of interest @13.17% for FY 2019-20 which has been considered by the Commission for calculation of interest on loans.

The interest on long term loans is calculated as

Table No.18: Interest on Long Term Loan determined by the Commission for FY 2019-20

(Rs. Crore)

Sr.No	Particulars	Amount
1	Opening balance of Loan	318.69
2	Additional during the year	0.87
3	Less: Repayment during theYear	41.64
4	Closing balance of loans	277.92
5	Average loans	298.31
6	Weighted average of Rate ofInterest	13.17%
7	**Interest on loans**	**39.29**

6.13 EPPL has claimed Rs.6.50Crore as finance charges for FY 2019-20, as per Audited Accounts. Finance charges for FY 2019-20includes Rs.0.02Crore as Bank charges, Rs.0.01Crore as finance charges, Rs.0.06Crore as annual review charges,Rs.4.86 Crore charged by PSPCL on short fall of energy charges, Rs,1.21 Crore as interest on Over-dues of MSME, Rs. 0.05 Crore Surveillance fee and Rs.0.29 Crore as penal charges. The short fall of energy charges of Rs.4.86 Crore, Rs. 1.21 Crore as interest on Over-dues of MSME, Rs.0.29 Crore as penal charges are not allowable being not in the nature of bank charges. The Commission allows finance charges of Rs. 0.14 (Rs.0.02+0.06+0.01+0.05) Crore based on the Audited Annual Accounts for true up for FY 2019-20.

Accordingly, the Commission approves Rs. 39.43 (39.29+0.14) Crore for FY 2019-20 as Interest and Finance Charges on Long Term Loans.

7.0 **Interest on working Capital**

EPPL's Submission:

7.1 EPPL submitted that Regulation 34.1(c) of PSERC MYT

Regulations, 2014 provides for Components of Interest on Working Capital Loan in respect of Hydro based Generating stations.

7.2 EPPL submitted 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 State Bank of India Advance rate as on April 1 of the relevant year, whichever is less. 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.

7.3 EPPL further submitted that the Weighted Average Rate of Interest is computed @ 13.12% per annum for FY 2019-20 whereas the State Bank of India Advance Rate is 13.80 % p.a. as on 1st April, 2019.

7.4 EPPL submitted that it has calculated the interest on working capital for MYT Control Period as per PSERC MYT Regulations 2014. Interest on Working capital is claimed for FY 2019-20 by applying the rate of interest of 13.17%p.a. on components of Working capital i.e. (maintenance spares @ 15% of O&M expenses, O&M expenses for one month and Receivables of 2 months Annual Fixed Cost) as given in the Table

Table No.19: Interest on Working Capital claimed by EPPL for FY2019-20

(Rs. Crore)

Sr.No	Particulars	Amount
1	Maintenancespares@15%of O&M expenses	3.91
2	O & M expenses for one month	2.17

3	Receivable for two months	26.08
4	Total Working Capital	32.16
5	Rate of Interest	13.17%
6	**Interest on Working Capital**	**4.24**

7.5 EPPL prayed to allow Interest on working CapitalofRs.4.24 Crore as per the provision of PSERC MYT Regulations 2014.

PSPCL's Submission:

7.6 PSPCL has not given any comments.

Commission's Analysis:

7.7 Regulation 34.1 (c) of PSERC MYT Regulations, 2014 provides for Components of Interest on Working Capital Loan in respect of Hydro based Generating stations which is reproduced hereunder: -

INTEREST ON WORKINGCAPITAL

34.1. Components of Working Capital

a……..

b……..

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

i. Maintenancespares@15%of operation and maintenance expenses;

ii. Operation &maintenance expenses for 1month;

iii. Receivables equivalent to 2 months of fixed cost.

34.2 Rate of Interest

The rate of Interest on Working Capital shall be as per regulation 25.1"

7.8 Further, Regulation 25.1 as amended vide 03.02.2016 of PSERC MYT Regulations, 2014 determines the rate of interest on working capital &security deposit which is reproduced hereunder:

"**25. RATE OF INTERESTON WORKING CAPITAL &SECURITY DEPOSIT**

25.1. The rate of interest on working capital shall be equal to the weighted average rate of interest paid/ payable on loans by the licensee/generating company/SLDC or the State Bank of India Advance Rate as on April 1 of the relevant year, whichever is less. 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".

7.9 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 State Bank of India Advance rate as on April 1 of the relevant year, whichever is less. 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

7.10 The State Bank of India Advance Rate is 13.80% as on 01.04.2019.The Weighted Average Rate of Interest has been considered for true up for FY 2019-20 @13.17% p.a. as claimed by EPPL in this petition. The Commission considers Weighted Average Rate of Interest for True-up for FY 2019-20 @13.17% as claimed by EPPL.

7.11 Interest on working capital for MYT Control Period has been calculated as per PSERC MYT Regulations 2014. Interest on Working capital has been calculated for true up for FY 2019-20 by applying the rate of interest mentioned above on the components of Working capital as given in table below:

Table No.20: Interest on Working Capital approved by the Commission for FY 2019-20

(Rs.Crore)

Sr. No	Particulars	Amount
1	Maintenance spares @15% of O&M	2.95
2	O&M Expenses for one month	1.64
3	Receivables for two months	23.95
4	**Total Working Capital**	**28.53**
5	Rate of Interest (%)	13.17%
6	**Interest on Working Capital**	**3.76**

Thus, the Commission approves working capital requirement of Rs.28.53Crorefor FY 2019-20 and interest thereon of Rs.3.76Crore.

8.0 Tax on Income

EPPL's Submissions

8.1 EPPL submitted Regulation 23 of PSERC MYT Regulations, 2014 provides for determination of income tax

8.2 EPPL further submitted that as per the provisions of the Income Tax Act, it is liable to pay Minimum Alternate Tax (MAT) for the control period during FY 2017-18 to FY 2019-20 @ 21.55%. Accordingly, the computed value of tax limited to Tax on ROE claimable under PSERC Tariff Regulations and recoverable from PSPCL amounts to Rs. 0.11Crore for FY 2019-20.

PSPCL's Submission:

8.3 PSPCL has not given any comments.

Commission's Analysis:

8.4 Regulation 23 of PSERC MYT Regulations, 2014 provides for income tax which is EPPL requested this Commission to allow Income tax of Rs. 0.11 Crore for FY 2019-20 being tax paid for the current year as per PSERC MYT Regulations 2014

"23. INCOME TAX

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 the core/licensed business shall not constitute a pass-through component in tariff and tax on such other income shall be payable by the generating company or the licensee or the SLDC

23.2 Tax on income, if actually liable to be paid, shall be limited to tax on return on equity allowed, excluding incentives.

23.3 Tax on income shall be considered at income tax rate including surcharge, cess etc. as applicable during the relevant year in accordance with the provisions of Income Tax Act, 1961 duly amended from time to time.

23.4The benefits of tax holiday and the credit for carrying forward losses applicable as per the provisions of the Income Tax Act,1961 shall be fully passed on to the customers /consumers.

23.5 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 maybe

8.5 As per the Audited Annual Accounts of FY 2019-20current tax has been booked at Rs. 0.11Crore. EPPL has submitted a copy of Income tax Return relating to the deposit of current tax for FY 2019-20.Tax on income is governed by Regulation 32 of PSERC Regulations, 2005.The Commission approves maximum allowable tax on income for true up for FY 2019-20as per table below.

Table No. 21 : Income tax on Return on Equity approved by the Commission for FY2019-20 **(Rs. Crore)**

Sr.No	Particulars	Amount
1	MAT Rate (including surcharge & cess)	17.4720%
2	ROE Rate	15.50%
3	ROE Rate grossed up	18.78%
4	Average Equity	255.10
5	Pre Tax ROE (4)*(3) for thepurpose ofIncome tax calculations	47.91
6	Tax on ROE (5)*(1)	8.37
7	Current tax paid	0.11
8	**Allowable Income Tax (lower of 6 and 7)**	**0.11**

Accordingly, the Commission approves the Income Tax paid of Rs.0.11Crore for FY 2019-20.

9.0 Other expenses (Loss on sale of Fixed Assets)

EPPL's Submission

9.1 EPPL submitted vide reply dated 24.03.2022 that it has raised a claim with the New India Insurance Company as per the insistence of PSPCL and this Commission in July, 2020. EPPL further submitted that the new management has contacted the insurance agency to obtain the status of this claim and the said insurance agency has communicated that the claim was closed as their survey report confirmed that the cause of loss was due to gradual wear & tear in nature, is not sudden and unforeseen/accidental in nature and is therefore not covered under the insurance policy.

9.2 EPPL further stated that it has Commissioned the first set of runners in financial year FY 2018-19 and the second set in FY 2021-22. Both the sets of decommissioned runners are available at the site and are yet to be disposed off. EPPL is in the process of obtaining quotations from various vendors for selling them as scrap. It further stated that they will close this process in FY 2022-23 and will submit necessary documentation and claim the capitalization for the same while finalizing True-up for FY 2021-22.

9.3 EPPL vide its submission dated 11.05.2022 replied to the Commission's query as to whether the decision of the Insurance company can be challenged on the basis of the facts available. EPPL submitted that in the "Report on Replacement of Turbine Runners in 100 MW (2x50 MV) Malana – II He Project, Kullu, Himachal Pradesh", IIT Roorkee team emphasised, the necessity of replacing the runners, it was observed as follows:

> "…*Further, due to repeated weld repairs/stress relieving process being carried out year after year, the profile of the runners and nozzles is getting affected resulting into decreased efficiency and performance….*
>
> *Committee of Consultants is of the opinion that the frequent repairs of the runners and nozzles will adversely impact their efficient performance. In view of the circumstances as submitted above, the Committee of Consultants is of the opinion that the old runners have to be replaced immediately for preventing a catastrophic failure…"*

9.4 EPPL stated that the specific clause from the Industrial All Risks Insurance Policy, used by the insurers to reject our claim reads as follows:

> "1) The policy does not cover damage to the property insured caused by:
>
> a) i) faulty or defective design materials or workmanship inherent vice latent defect gradual deterioration deformation or distortion or wear and tear…"

EPPL further stated that, it is clear from the IIT Roorkee report and the Insurance internal survey team that the runners underwent several rounds of repairs, welding, coating/Polishings, stress relieving procedures and thereby the cause of loss has been classified under normal wear and tear and the claim is rejected.

9.5 EPPL submitted that the Runners underwent annual refurbishment, stress relieving, polishing, dynamic balancing etc., as a part of their Annual Maintenance activities and so do not find merit in challenging the decision of the Insurance Company.

9.6 EPPL vide its memo dated 22.07.2022 has also supplied the break-up of expense under the head loss of discarding of property, plant and equipment.

PSPCL Reply

9.7 No comments have been given by PSPCL.

Commission's Analysis

9.8 EPPL in its Annual Audited Accounts for FY 2019-20 has claimed Rs.2.20 Crore under Operation& Maintenance expenses as loss on sale of fixed assets which includes loss on account of damaged runners.

9.9 The Commission in its order dated 09.03.2021 in Petition no.16 of 2020 had provisionally allowed loss on sale of fixed assets of Rs.2.20 Crore in FY 2019-20 to be reviewed at the time of true-up.

9.10 The Commission after considering the replies of EPPL dated 24.03.2022 ,11.05.2022 and 22.07.2022, is of the considered view that damage of the runners before completion of its useful life may be due to sudden and unforeseen/accidental reason or due to manufacturing defect for which the consumer cannot be burdened. Hence, the unforeseen loss on account of this asset before completion of its useful life cannot be allowed to be passed through as expense.

The Commission, therefore disallows loss on sale of fixed assets of Rs.2.20 Crore in FY 2019-20 as other expenses.

10.0 Non-Tariff Income

EPPL's Submission:

10.1 EPPL has claimed Non-Tariff Income of Rs.0.42 Crore for FY 2019-20 as per audited annual accounts of FY 2019-20.

10.2 EPPL in its rejoinder dated 10.05.2022 to the reply filed by PSPCL submitted that the above practices that are being adopted and followed by other commissions like UERC as stated in the petition have addressed concerns of the developers. Accordingly, EPPL prayed to consider the merits in its plea and make necessary amendments or remove such clause as and when new MYT Regulations will be issued for the 3rd Control Period i.e., FY 2023-24 to FY 2025-26.

PSPCL's Submission:

10.3 In terms of Regulation 28.1 of the PSERC Tariff Regulations, 2014, interest on investments is to be treated as Non-tariff Income. It is the case of the Petitioner that the said methodology adopted by this Commission is erroneous and this Commission may issue necessary amendments to the Regulations. It is submitted that seeking for an amendment the Regulations is beyond the scope of the present Petition has been filed for truing up.

10.4 PSPCL further submitted that in a petition for truing up of the financials, it cannot be the case of the Petitioner to seek amendment of any Regulations in order to get a cost component allowed for inclusion in the Annual Fixed Costs.

10.5 PSPCL stated that be that as it may, even otherwise the Regulation 28.1 is apt in its application. It is the decision of the Petitioner to not to share the RoE realized and invest the same is bound to be included a Non-Tariff Income.

Commission's Analysis

10.6 The Non-Tariff Income has been determined as per Regulation-28 of PSERC MYT Regulations-2014 (amended from time to time).

10.7 The Commission notes that EPPL has claimed non tariff income of Rs.0.42 Crore which includes Rs.0.36 Crore as interest on fixed deposits and Rs.0.06 Crore as interest income from other investments. The Commission considers both Rs.0.36 Crore and Rs.0.06 as non-tariff income and allows Rs 0.42 Crore as non-tariff income for FY 2019-20.

Therefore, the Commission approves Non-Tariff Income as Rs.0.42 Crore for FY 2019-20.

11.0 True up of Annual Fixed Charges for FY 2019-20

11.1 Annual Fixed Charges (AFC) for true up for FY 2019-20as worked out and approved by the Commission is summarized

Table No.22: Annual Fixed Charges determined by the Commission for FY 2019-20 **(Rs. Crore)**

Sr. No.	Particulars	Approved in APR	EPPL submission	Approved by Commission
1	O&M Expenses	19.48	25.88	19.65
2	Depreciation	41.63	41.64	41.64
3	Return on Equity	39.53	39.54	39.54
4	Interest on Loans	39.25	45.72	39.43
5	Interest on working capital	3.77	4.24	3.76
6	Income Tax	0.00	0.11	0.11
7	Other expenses	2.20	0.00	0.00
8	Total AFC	145.86	157.13	144.13
9	Less:Non-tariff income	0.42	0.42	0.42
10	**Annual Fixed Charges**	**145.44**	**156.71**	**143.71**

EPPL shall be entitled for computation and payment of capacity charges and energy charges in accordance with Regulation 38 and Regulation 39, PSERC, MYT Regulation, 2014**.**

12.0 **Revision in Design Energy:**

12.1 **EPPL's submission**

EPPL submitted that as per this Commission's Order dated 15.11.2021, it has requested 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. Based on the CEA Report and revalidated revised design energy, EPPL seek leave of this Commission to submit its claim for the previous years.

PSPCL's Comment

12.2 PSPCL has not submitted any comment in this regard.

Commission's Analysis

12.3 **The Commission observes that, the present petition has been filed for approval of Annual Fixed Cost of the Project. The issue of change in design energy is under consideration of the Commission under a separate Petition filed by EPPL being Petition No. 43 of 2021.**

13.0 Transmission Charges for Charor-Banala 220 KV D/C Line of HPPTCL

EPPL's submissions

13.1 EPPL submitted that it had constructed Charor 132 kV D/C line and Charor 132/220 kV Substation as part of dedicated transmission system to Malana-II HEP. Beyond Charor, H.P. Power Transmission Corporation Ltd. (HPPTCL), in 2019 constructed 220 kV D/C transmission line from Charor to Banala (which is 220/400 kV Substation of POWEREGRID) from where the power is transmitted over the Inter-state Transmission system.

13.2 EPPL further submitted that for determination of tariff for its 100 MW Malana-II HEP, it filed a petition before PSERC being Petition No.54 of 2012, wherein, inter alia, prayed for approval of all the power evacuation charges at and beyond the delivery point of the EPPL's Charor sub-station by way of reimbursement to EPPL by the PSPCL. PSERC in the above referred Petition issued Order on 27.11.2013, inter alia, decided that the pro-rata cost of proposed 220 kV Charor to Banala (Parbati Pooling Station) transmission system shall be included in the capital cost of the Project in line with the provisions in the PPA. However, since there was delay in implementation of pooling station at Banala by POWERGRID, a decision was taken in a meeting of CEA to LILO of AD Hydro to Nalagarh 220 kV D/C line as an interim arrangement for evacuation of power from the Project for transmission of power to PSPCL.

13.3 EPPL stated that subsequently, Hon'ble APTEL in its judgment dated 12.11.2014 in appeal No.30 of 2014 and 35 of 2014 (appeal filed against PSERC order dated 27.11.2013) ordered that transmission charges and losses payable to AD Hydro Power for utilization of LILO line for Malana 2 power may be made pass through. Accordingly, the notional transmission cost from Chhaur to Banala allowed by the State Commission has to be deducted from the Capital Cost.

13.4 EPPL further stated that thereafter, PSERC vide its Order dated 04.12.2014, disallowed Rs. 15.47 Crore which was allowed earlier vide order dated 27.11.2013 transmission cost from Chhaur to Banala. Accordingly, PSERC directed PSPCL to pay transmission charges as per invoice amount raised by AD Hydro upon EPPL till the finalization of transmission charges for sharing of transmission line of AD Hydro Power subject to adjustment on the outcome of appeal before Supreme Court.

13.5 EPPL submitted that it sought reimbursement of the transmission charges from PSPCL separately as per the directions of Hon'ble APTEL in its Judgment dated 12.11.2014 as well as Consequential Order dated 04.12.2014 in Petition No. 54 of 2012 & Order dated 31.08.2015 in Petition No. 37 of 2014 passed by this Commission. This Commission vide its order dated 20.12.2016 in petition no. 55 of 2015 has *inter-alia* directed as below:

> *"the Commission reiterates its findings in its Order dated 04.12.2014 in petition no. 54 of 2012 (on remand by Hon'ble APTEL vide judgment dated 12.11.2014) in the matter and directs PSPCL to pay transmission charges as directed in the aforesaid APTEL Order subject to the amount as per invoice(s) raised by AD Hydro Power to EPPL, till the finalization of transmission charges for sharing of transmission line of AD Hydro Power subject to adjustment on the outcome of the appeal pending before the Hon'ble Supreme Court. EPPL shall submit proof of payments to PSPCL regularly. "*

13.6 EPPL stated that as the matter has been remanded back to Hon'ble CERC by Hon'ble Supreme Court. M/s. ADHPL has submitted the tariff petition before CERC for determination of transmission charges on 08.09.2017. The Hon'ble CERC has passed the interim Order with regard to the payment of Transmission charges on 22.12.2017. The relevant extracts of the same are as follows:

> *"The Commission after hearing the parties directed EPPL to make payment of 60% of the Outstanding bills raised by the Petitioner immediately and to continue the payment of monthly transmission charges at the said rate for use of the dedicated transmission line of the Petitioner, subject to the determination of tariff of the said transmission line I.A. no. 69/2017 is disposed of in terms of the above."*

13.7 EPPL further submitted that, Hon'ble CERC has passed final Order with regard to the Transmission charges on 27.10.2019. The relevant extracts of the same are as follows:

> *"Sharing of Transmission Charges*
>
> *113. EPPL has submitted that the transmission charges shall be calculated and allocated in terms of the 2009 Tariff Regulations. The Petitioner has also submitted that the instant transmission assets should not be included in the PoC pool. We have considered the submissions of the parties. The instant transmission line was initially conceived as a DTL and it was later decided that the same will be used by EPPL and other generating stations to meet their evacuation requirements and the transmission charges shall be shared by them. The instant line is being used by the Petitioner, EPPL and HPPTCL/ KPCPL/ HPSEB for evacuation of their power from their respective generating stations. On the completion of construction of 220 kV Transmission Line by HPPTCL from Chhaur Sub-station to Parbati Pooling Station, EPPL and HPPTCL/ KPCPL/ HPSEB shall evacuate their generation capacities through the said line and stop using the Petitioner‟s transmission line. Accordingly, the instant transmission line is being shared by Petitioner and other generators and hence we are of the view that*

the instant transmission line should not be included in the PoC calculations and the transmission charges should be shared by the Petitioner and the other generators in proportion to their installed capacities ----------".

13.8 EPPL further stated that it got disconnected from the M/s ADHPL's 220 kV Double Circuit Chhaur – Nalagarh Line on 3rd December 2019 and switched over to HPPTCL's 220 kV Double Circuit Chhaur –Banala Line on 5th December 2019. With the changeover of the transmission system, the current transmission losses have come down from earlier approved 4.75% to 0.75% as per the order of Hon'ble HPERC in Petition No. 31/2019 dated 29.06.2019. Presently, as directed by CEA, the Scheduling and Deviation Settlement for Malana – II is being performed by HPSLDC. The weekly Deviation Charges as per HPERC Deviation Settlement Mechanism Regulation, 2019 and monthly SLDC charges of Rs. 1.18 Lacs as per the HPERC order on True up for the Period FY 2014-15 to FY 2018-19, dated 29.06.2019 and HPERC (Levy and Collection of Fees and Charges by SLDC) Regulation 2011, are being paid to HPSLDC.

13.9 EPPL submitted that in the year 2020, HPPTCL approached HPERC for determination of Transmission Charges for 220 kV Chharor -Banala D/c transmission Line. The Hon'ble HPERC determined the same and directed to approach NLDC/CERC to declare the said line as inter-State line. However, HPPTCL started raising invoices to EPPL and same was challenged by EPPL before HPERC. HPERC in its interim Order directed EPPL to pay 35% of the invoices raised by the HPPTCL. Against the same, we wish to inform the Hon'ble PSERC that EPPL has approached Hon'ble High Court of Himachal Pradesh regarding the charges being claimed by HPPTCL and obtained stay order. In the meanwhile, HPPTCL has approached CERC to declare the 200 kV Chharor -Banala D/C line as an inter-State transmission line and to allow to recover transmission charges from the pool. A detailed letter mentioning the factual position on the transmission line charges which is submitted to PSPCL on 15.12.2021.

13.10 EPPL submitted the Extracts of Regulation 42.1 of the Tariff Regulations, 2014 is reproduced below:

"*42.1 SLDC and transmission charges as determined by the Commission shall be considered as a part of expenditure, if payable by the generating plant*."

EPPL prayed this Commission to allow these costs as pass through and payable by PSPCL as and when the relevant orders from CERC and Hon'ble High Court of HP are submitted.

PSPCL's Comments:

13.11 The petitioner's submission that the transmission charges including the SLDC/RLDC charges for use of the Charor-Banala 220 KV D/C line built by HPPTCL has been made pass through and is payable by PSPCL is incorrect. The power from the petitioner's generating station was being wheeled through the AD Hydro line as an interim measure since the Charor-Banala line was getting delayed in commissioning. That pursuant to the APTEL decision dated 12.11.2014 in appeal no. 30 & 35 of 2014 and consequential Order of the Commission (on remand) dated 04.12.2014 in petition no. 54 of 2012 wherein the Commission directed that the interim arrangement shall continue till the construction of 220 KV Double Circuit Line from Chhaur to Parbati Pooling Station is completed by HPPTCL. Thus, PSPCL was paying the transmission charges for use of AD Hydro line as an interim measure.

The said position was crystallized by the Commission's Order dated 09.03.2021 in petition no. 16 of 2020. The issue of transmission charges is no longer res Integra and not having been challenged by the petitioner has attained finality. After the commissioning of the Charor-Banala line, the transmission charges are to be paid by the petitioner upto the delivery point in terms of Article 4.7 of the PSA dated 23.03.2006.

EPPL's reply:

13.12 In response to PSPCL comments, EPPL has submitted that after commissioning of Charor-Banala Line, the issue of levy of transmission charges and other e- connected issues like whether the said line is inter-State or Intra-State are subjudice before the Hon'ble CERC. Even though HPERC determined transmission charges for use of the said line, issue like levy of these charges after apportionment amongst the users of the said line are still at large and are required to be determined by the Appropriate Commission. Therefore, the Petitioner carves leave of this Commission to submit its claims as to the reimbursement of transmission charges by PSPCL for use of Charor-Banala Line at a later point of time i.e. after the subjudice issues are decided. Petitioner further submits that the Respondent has mis-represented the Article 4.7 of the power Sale Agreement dated 23.03.2006 as it has no relevance with the Transmission Charges of above mentioned 220 KV Charor-Banala D/C line. PSPCL is liable to pay transmission charges as per the extant statutory/regulatory & contractual provisions applicable to the Project.

Commission's Analysis

13.13 The Commission refer to Order in Petition No.54 of 2012 (on remand by APTEL vide Judgment dt. 12.11.2014), wherein it was held as under:

"The Commission vide its Order dated 27.11.2013 had allowed Rs. 1547 lac as pro-rata cost of the proposed 220 kV Double Circuit line from Chhaur upto the coming up Parbati Pooling Station at Banala in para (III) (C) (ii) of its Order dated 27.11.2013.

Hon'ble APTEL in para 190 of its judgment dated 12.11.2014, while observing that the transmission charges and losses payable to AD Hydro Power may be made pass through, held that the notional transmission cost from Chhaur to Banala allowed by the Commission has to be deducted from the Capital Cost.

In view of the above, the Commission disallows Rs. 1547 lac allowed earlier vide its Order dated 27.11.2013."

The Commission also notes EPPL's submission that it has approached Hon'ble High Court of Himachal Pradesh regarding the transmission charges being claimed by HPPTCL and obtained the stay order. And, that HPPTCL has approached CERC to declare the 200 kV Chharor-Banala D/C line as an inter-State transmission line and to allow to recover the transmission charges from the pool. Further, the Commission observes that the payment of transmission charges is to be regulated as per the provisions of the PSA/PPA and judicial orders in the matter.

The Petitioner may approach the Commission after the dispute of transmission charges attains finality in the appropriate judicial authority.

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, 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 8 (13) of CERC (Terms and Conditions of Tariff) Regulation, 2014 are squarely applicable to under recovery or over recovery of fixed charges in case of generating companies.

14.2 The Regulation 8 (13) of CERC (Terms and Conditions of Tariff) Regulation, 2014 is re-produced below for reference:-

> *"The amount under-recovered or over-recovered, along with simple interest at the rate equal to the bank rate on 1st April of the respective year, shall be recovered or refunded by the generating company or the transmission licensee, as the case may be, in six equal monthly instalments starting within three months from the date of the tariff order issued by the Commission".*

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 8(13) of CERC (Terms and Conditions of Tariff) Regulation, 2014 on under recovered or over recovered Annual Fixed Charges (AFC) determined by the Commission.

Part B:

Annual Performance Review of FY 2020-21 and FY 2021-22 and Revised estimates of FY 2022-23

The Commission observed that EPPL has failed to file Petition for True up of FY 2020-21 which it was to file on or before 30th November, 2021. The Commission decides not to process the Annual Performance Review for FY 2020-21 & FY 2021-22, and Revised estimates for FY 2022-23 which are irrelevant at this stage as the purpose is lost with the appropriate period having lapsed and also since tariff for 2nd MYT Control Period from FY 2020-21 to FY 2022-23 has already been allowed in Petition no.16 of 2020 vide its order dated 09.03.2021. Moreover, Petitions for True up of FY 2020-21 are overdue and FY 2021-22 is due for filing. Thus, the Commission, as per PSERC (Conduct of Business) Regulations, 2005, Suo-moto initiates processing of determination of Annual Fixed Cost for True-up of FY 2020-21 and True up for FY 2021-22 by calling the following information from EPPL which should be furnished within two weeks:

1. Annual Audited Accounts for FY 2021-22
2. Cost Audit Report for FY 2020-21 and FY 2021-22
3. Copies of bills for capital expenditure for FY 2020-21 and FY 2021-22.
4. Detail of capitalization of fixed assets for FY 2020-21 and FY 2021-22
5. Detail of interest paid and penal interest paid to the financial institution for FY 2020-21 and FY 2021-22
6. Calculation sheet for weighted average rate of interest for Long term loans for FY 2020-21 and FY 2021-22

7. Calculation sheet for weighted average rate of depreciation for FY 2020-21 and FY 2021-22
8. Weighted average rate for calculation of depreciation for FY 2020-21 and FY 2021-22
9. Details of terminal benefits paid during FY 2020-21 and FY 2021-22.
10. Detail of Non tariff income for FY 2020-21 and FY 2021-22.

This Petition is disposed off in light of the above directions.

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

Chandigarh
Dated: 23.08.2022